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رفع الملام عن الأئمة الأعلام - ابن تيمية

Raf' Al-Malam 'an al-A'immah Al-A'lam

Shaykh Ibn Taymiyyah
(May Allah have mercy on him)

d.1420 H



Glossary



صلى الله عليه وسلم | Sallāllāhu Alayhi Wa Sallam

Peace and blessings of Allah be upon him



In the Name of Allah, the All-Merciful, the Most Merciful

Praise is due to Allah for His bounties. I testify that there is no deity except Him; He has no associates in the heavens and the earth. And I testify that Muhammad is His slave and Messenger¹ and the seal of His Prophets—peace be on him and his family and Companions, continuous prayers and blessings until we meet him.

To Proceed:

It is obligatory upon Muslims, after being loyal to Allah the Exalted and His Messenger ﷺ, to be loyal to the believers, as the Qur'an declares, especially to the scholars who are the inheritors of the Prophets (peace be on them), whom Allah made like stars that serve as guides through the darkness of the land and the oceans. The Muslims are in agreement as regards their guidance and understanding. For prior to the advent of our Prophet Muhammad ﷺ, the scholars of the earlier [Prophets'] communities were less inclined to good, whereas the scholars of the Muslim community (*ummah*) were deemed to be the finest as they carried the mantle of knowledge bequeathed by the Prophet ﷺ and they are the revivers of whatever was forgotten of his *Sunnah*. Through them the Qur'an is established, and they act upon it; the Qur'an speaks through them, and they articulate whatever the Qur'an contains.

It should be known that none of the Imams who are generally accepted by the Muslim *ummah* would intentionally oppose the Prophet ﷺ in any aspect of his *Sunnah*, whether small or great. This is because they are in profound agreement regarding the obligation of following the Prophet ² ﷺ.

They believe that the words of anyone other than the Prophet ﷺ may be accepted or rejected.

¹ It should be indicated that the two terms (*al-Nabi* and *al-Rasul*), have been both rendered into English as "Prophet" due to the fact that in *Raf' al-Malam* the author uses them interchangeably as in most cases in the text they are both used in association with the Prophet Muhammad ﷺ and therefore the discussion regarding the difference between *al-nabi* and *al-rasul* among theologians would not arise in this case. Also, the term (*al-kitab*) referring to the Qur'an has been rendered into English as the Qur'an rather than 'the Book' as the latter might lead to confusion especially if the reader is not aware of such technical terminologies.

² See, Muhammad b. Idn al-Shafi'i, *al-Risalah* (Cairo: Matba'at al-Halabi, 1939), 74, 104

If any of their opinions was found to be in opposition to an authentic *hadith*, then there must be a just excuse for that and these excuses fall under one of the three categories;

- 1 *that the scholar did not believe that the Prophet ﷺ [actually] uttered the hadith.*
- 2 *that the scholar did not think that the issue in question was [actually] intended to be covered by the Prophetic hadith.*
- 3 *that the scholar believed the ruling [contained in the hadith] to have been abrogated.*

These three categories can be further divided into a number of more specific reasons:

1 First Reason

“ that the hadith did not reach the concerned scholar; and whoever is not aware of a hadith, is not held responsible for not knowing its ruling. ”

Thus, if the *hadith* did not reach him and he gave a judgement regarding a particular question on the basis of the apparent meaning of a verse or another *hadith* or on the basis of analogy or the presumption of continuity *{istishab}*, then his opinion might fortuitously agree with the *hadith* in one case while opposing it on another.

This is the most likely reason for most of what is found in the opinions of the Pious Predecessors (*al-salaf al-salih*) that oppose certain *hadiths*. Indeed, it is simply not possible for any single member of the *ummah* to know all the *hadiths* of the Prophet ﷺ. The Prophet ﷺ used to speak, issue legal verdicts (*fatawa*), pass judgement, or perform an action which was heard or seen by those who were present at the time and they, or some of them, would convey it to others who would in turn convey it to others until it would reach whomever Allah (the Most High) willed among the scholars from amongst the Companions of the Prophet, their Followers and those who came after them.

And in another assembly, such matters would be heard or seen by those who were absent from the first gathering and they [too] would convey it to whomever they were able to. As a result, the first group would know what was not known by the other and *vice versa* and so the scholars among the Companions and those who came after them would surpass each other in the relative levels of the extent of their knowledge or the quality of it.

[As we have said], it is absolutely impossible to claim that any one person could encompass all of the *hadiths* of the Prophet ﷺ and this can be illustrated through the example of the Righteous Caliphs, who were most knowledgeable regarding the affairs of the Prophet ﷺ, his *Sunnah* and other matters relating to him, especially [Abu Bakr] al-Siddiq (may Allah be pleased with him), who was never far from the Prophet whether at home or on his travels. In fact he was with him most of the time to the extent that he used to stay with him at night to deal with the Muslims' affairs.³

This is also true of 'Umar b. al-Khattab (may Allah be pleased with him) and you will find many *hadiths* in which the Prophet ﷺ said, ***"I entered with Abu Bakr and 'Umar" and "I went out with Abu Bakr and 'Umar."***⁴

Despite this, when Abu Bakr (may Allah be pleased with him) was asked about the grandmother's share of inheritance, he replied, ***"There is nothing prescribed for you in Allah's Book, nor do I know anything for you in the Sunnah of the Prophet of Allah ﷺ, but I will ask people [about it]."***

So he did ask them and al-Mughirah b. Shu'bah and Muhammad b. Maslamah came forward and testified that the Prophet ﷺ had given her a sixth.⁵ This *sunnah* was also reported by 'Imran b. Husayn.⁶

Thus, even though none of these three Companions was of the same stature as Abu Bakr and the other caliphs, they were the only ones who knew this particular *sunnah* about whose practice the *ummah* has since agreed upon.⁷

Similarly, 'Umar b. al-Khattab (may Allah be pleased with him) did not know the *sunnah* relating to "seeking permission" (*isti'dhan*) [before entering a dwelling] until he was informed about it by Abu Musa al-Ash'ari who cited the Ansar in support of his narration,⁸ and this is while 'Umar was more knowledgeable than the one who related this *sunnah* to him.

³ Ahmad b. Muhammad al-Tahawi, *Sharh Ma'ani 'l-Athar* (Beirut; Dar al-Kutub al-'Ilmiyyah, 1399 ah), 4: 330.

⁴ See for instance, Muhammad b. Isma'il al-Bukhari, *Sahih al-Bukhari* [henceforth referred to as "Sahih"], *Kitab al-Sulh*, *Bab al-Sulh bayn al-Ghurama'* and *Kitab Fada'il al-Sahabah*, *Bab Manaqib 'Umar*, as well as the testimony of the caliph 'Ali regarding this in al-Bukhari, *Sahih*, *Kitab Fada'il al-Sahabah*, *Bab Manaqib 'Umar*.

⁵ Muhammad b. 'Isa al-Tirmidhi, *al-Jami' al-Mukhtasar min al-Sunan* [henceforth referred to as "Sunan"] *Kitab al-Fara'id*, *Bab ma ja' fi Mirath al-Jaddah*; Muhammad b. Yazid Ibn Majah, *Sunan Ibn Majah*, *Kitab al-Fara'id*, *Bab Mirath al-Jaddah*.

⁶ See, for a discussion about the authenticity of these reports, Muhammad b. 'Ali al-Shawkani, *Nayl al-Awtar min Ahadith Sayyid al-Akhyar Sharh Muntaqa'l-Akhbar* (Beirut: Dar al-Jil, 1973), 6:175-177.

⁷ See for the discussion about the share of the grandmother, 'Abd Allah b. Ahmad Ibn Qudamah, *al-Mughni fi Fiqh al-Imam Ahmad b. Hanbal al-Shaybani* (Beirut; Dar al-Fikr, 1405 ah), 6:189; Muhammad b. Ahmad Ibn Rushd, *Bidayat al-Mujtahid wa Nihayat al-Muqtasid* (Beirut; Dar al-Fikr, n.d.), 2:262-263.

⁸ See, al-Bukhari, *Sahih*, *Kitab al-Isti'dhan*, *Bab al-Taslim wa 'l-Isti'dhan Thalathan*; Muslim b. al-Hajjaj al-Naysaburi [henceforth referred to as "Muslim"], *Sahih Muslim* [henceforth referred to as "Sahih"], *Kitab al-Adab*, *Bab al-Isti'dhan*.

Likewise, 'Umar did not know that the wife inherits from the blood money of her deceased husband. Instead, he thought that the blood money belonged to the *'aqilah*⁹ until al-Dahhak ibn Sufyan al-Kilabi, who was appointed by the Prophet ﷺ as a governor of certain regions, wrote to 'Umar informing him that the Prophet ﷺ gave the wife of Ashyam al-Dibabi (may Allah be pleased with him) [a share] of her deceased husband's blood money. As a result, 'Umar abandoned his opinion in favour of this *hadith* and said: "If I had not heard this *hadith*, I would have judged contrary to it."¹⁰

Umar also did not know the ruling of *jizyah* for the Magians [followers of a fire-worshipping religion] until he was informed by 'Abd al-Rahman b. 'Awf (may Allah be pleased with him) that the Prophet ﷺ said, "Treat them as you treat the People of the Book."¹¹ Moreover, when 'Umar reached Sargh [near Tabuk] and was informed that a plague had stricken al-Sham [the region of greater Syria], he consulted the early Muhajirun¹² who were with him at the time. He then asked the Ansar,¹³ then he asked those who accepted Islam at the time of the conquest of Makkah, and every one of them told him what they thought and none of them was able to inform him of a *sunnah* from the Prophet ﷺ until 'Abd al-Rahman b. 'Awf came and told him of the *sunnah* of the Prophet ﷺ with regard to plagues, when he said: "If the plague appears in a land while you are in it. do not depart in flight from it and if you hear that it has smitten a land, do not go towards it."¹⁴

On another occasion, 'Umar discussed with Ibn 'Abbas (may Allah be pleased with both of them) the problem of one who has experienced doubts concerning his prayer [i.e. whether he had missed an element of it or not] and 'Umar was not aware of any *sunnah* pertaining to this matter. He was then informed by 'Abd al-Rahman b. 'Awf that the Prophet ﷺ said that "the one performing the prayer should ignore his doubt and base his action on whatever is certain to him."¹⁵

⁸ See, al-Bukhari, *Sahih*, *Kitab al-Isti'dhan*, *Bab al-Taslim wa 'l-Isti'dhan Thalathan*; Muslim b. al-Hajjaj al-Naysaburi [henceforth referred to as "Muslim"], *Sahih Muslim* [henceforth referred to as "Sahih"], *Kitab al-Adab*, *Bab al-Isti'dhan*.

⁹ There is a discussion about who is meant by *'aqilah* in Islamic law. One of the opinions is that it is the paternal uncles and their children, however distant they are in descent. Another opinion states that *'aqilah* includes the father, sons, brothers and every agnatic heir. Ibn Taymiyyah holds a different opinion from these two. He asserts that *'aqilah* is "every individual who helps and supports the person at the time and the place." See, al-Matroudi, *The Hanbali School of Law*, 118-119.

¹⁰ See, Malik b. Anas al-Asbuhi, *Muwatta' al-Imam Malik* (Egypt: Dar Ihya' al-Turath, n.d.), 2: 866; Ahmad b. Muhammad b. Hanbal, *Musnad al-Imam Ahmad b. Hanbal* (Cairo: M'assasat Qurtubah, n.d.), 3:452 and Sulayman b. al-Ash'ath al-Buhārī, *Kitab al-Fara'id*, *Bab fi'l-Mar'ah Tarith min Diyat Zawjiha*.

¹¹ See, Malik, *Muwatta'* 1: 278; also see, 'Abd Allah b. Yusuf al-Zayla'i, *Nasb al-Rayah li Ahadith al-Hidayah* (Cairo: Dar al-Hadith, 1357), 3:448-449 and Muhammad b. Ahmad Ibn 'Abd al-Hadi, *Tanqih Tahqiq Ahadith al-Tat'liq* (Beirut: Dar al-Kutub al-'Ilmiyyah, 1998), 3: 364.

¹² The emigrants from Makkah to Madinah

¹³ The Madinan followers of the Prophet ﷺ who granted him refuge after the hijrah to Madinah

¹⁴ See, al-Bukhari, *Sahih*, *Kitab al-Tibb*, *Bab man Kharaja min Ard la Tulayimuh*; Muslim, *Sahih*, *Kitab al-Salam*, *Bab al-Ta'un*

¹⁵ For the hadiths attributed to 'Abd al-Rahman ibn 'Awf regarding this, see, Muhammad b. Jarir al-Tabari, *Tahdhib al-Athar* (Damascus: Dar al-Ma'mun li 'l-Turath, 1995), 33.

Finally, 'Umar was once travelling on a particularly windy day. He asked: "Who can tell us [from the Prophet] something with regard to the wind?" Abu Hurayrah (may Allah be pleased with him) said: "I was informed of 'Umar's request while I was at the back of the group so I spurred my riding camel to hasten forward until I reached him and narrated to him what the Prophet ﷺ ordered when the wind would rage."¹⁶

Thus, these were the issues that were not known to 'Umar until he was informed about them by those who were not his equal in rank. Indeed, there were other issues in which 'Umar knew nothing from the sunnah as a result of which he pronounced a judgement, or issued a *fatwa* on them in a way that might not have been in [direct] conformity with the *Sunnah*. An example of this is his judgement on the blood money for fingers, namely that they are different from one another based on their different functions, whereas both Abu Musa and Ibn 'Abbas (may Allah be pleased with them), both of whom were lesser in degree of knowledge than 'Umar, knew the Prophet's saying, "This and this are equal,"¹⁷ meaning the thumb and little finger. This *sunnah* reached Mu'awiyah (may Allah be pleased with him) during the time of his rule, and he judged in accordance with it and the Muslims felt that it was incumbent upon them to follow it. The fact that 'Umar was not aware of this *hadith* was not considered a shortcoming on his part.

Another example is 'Umar and his son 'Abd Allah (may Allah be pleased with both of them) as well as other notable scholars prohibiting the wearing of perfume by the one who is about to enter into a state of ritual consecration (*ihram*) and by the one who is about to go to Makkah for circumambulation of the Ka'bah (*tawaf* after throwing the stones at Jamarat al-'Aqabah, not being aware of the *hadith* of 'A'ishah (may Allah be pleased with her) in which she said: "I perfumed the Prophet ﷺ for his *ihram* before he entered into the state of and I also perfumed him before performing the *hajj* circumambulation (*tawaf al-ifadah*)" (i.e. after the first state of *ihram* elapses)."¹⁸

Umar used to allow the one who wears leather socks to wipe over them until he takes them off without any restriction [as to time]. This was adhered to by a group of the early pious predecessors because the *hadith* regarding the time restriction on wiping that was authenticated by some of those who were not their equal in knowledge had not reached them.¹⁹ This *hadith* was narrated from the Prophet ﷺ through various authentic channels of transmission.²⁰

¹⁶ See Ahmad, *Musnad*, 2: 267 and 'Abd al-Razzaq b. Hammam al-San'ani, *al-Musannaf* (Beirut: al-Maktab al-Islami, 1403 AH), 11: 89.

¹⁷ See al-Bukhari, *Sahih*, *Kitab al-Diyat*, *Bab idha 'Adda Rajulan fa Waqa'at Thanayah*.

¹⁸ See, al-Bukhari, *Sahih*, *Kitab al-Hajj*, *Bab al-Tib 'ind al-Ihram*; Muslim, *Sahih*, *Kitab al-Hajj*, *Bab al-Tib li 'l-Muhrim 'ind al-Ihram*.

¹⁹ See, Yahya b. Sharaf al-Nawawi, *Sahih Muslim bi Sharh al-Nawawi* (Beirut: Dar Ihya' al 'Turath, 1392), 3:176.

²⁰ See for example, Muslim, *Sahih*, *Kitab al-Taharah*, *Bab al-Tawqifi 'l-Mash*.

The same holds for 'Uthman (may Allah be pleased with him) who did not know that a woman should spend the waiting period following the death of her husband in the house where she lived before his death, until al-Furay'ah bint Malik—Abu Sa'id al-Khudri's sister (may Allah be pleased with both of them)—related to him that when her husband passed away the Prophet ﷺ told her “Remain in your house until you fulfill the period stated in the Qur'an for this matter [four months and ten days].” 'Uthman (may Allah be pleased with him) then acted upon this *hadith*.²¹

He was also once given meat [i.e. while he was in a state of *ihram*] from a hunt which was hunted specially for him as a gift and upon sitting down to eat it 'Ali (may Allah be pleased with him) informed him that the Prophet ﷺ rejected the meat [from a hunt] given to him as a present.”²²

And likewise 'Ali (may Allah be pleased with him) who said: “When I used to hear a *hadith* from the Messenger of Allah ﷺ, directly Allah made me benefit from all that He desired me to benefit from, whereas if anyone else would relate something to me, I would make him swear an oath and if he did, I would believe him. Abu Bakr told me—and he was being truthful—and he mentioned the well-known *hadith* related to the Prayer of Repentance (*salat al-tawbah*).²³

'Ali and Ibn 'Abbas (may Allah be pleased with them), among others, issued a *fatwa* that the woman whose husband died while she was pregnant, must observe the longer of the two specified waiting periods. The *sunnah* of the Messenger of Allah ﷺ regarding Subay'ah al-Aslamiyyah (may Allah be pleased with her) had not reached them. Upon the death of her husband Sa'd b. Khawlah, the Prophet ﷺ told her that her waiting period continues to the point of the child's delivery.²⁴

Finally, 'Ali, Zayd, Ibn 'Umar and others (may Allah be pleased with them all) issued a *fatwa* regarding the woman who authorizes her husband to determine her dower (*al-mufawwidah*) that, “if her husband passes away, she is not entitled to any dower.” The *sunnah* of the Messenger of Allah ﷺ pertaining to Barwa' bint Washiq (may Allah be pleased with her) had however not reached them.”²⁵

²¹ See, Abu Dawud, *Sunan*, *Kitab al-Talaq*, *Bab fi l-Mutawaffa Anha*.

²² See, Ahmad, *Musnad*, 1:100.

²³ See, Abu Dawud, *Sunan*, *Kitab al-Salah*, *Bab fi 'l-Istighfar*; Ibn Majah, *Sunan*, *Kitab Iqamat al-Salah*, *Bab ma Ja' fi ann al-Salat Kaffarah*; al-Tirmidhi, *Sunan*, *Kitab Abwab al-Salah*, *Bab ma Ja' fi 'l-Salat 'ind al-Tawbah*; Ahmad, *Musnad*, 1:2.

²⁴ See, al-Bukhari, *Sahih*, *Kitab al-Tafsir*, *Bab wa Ulat al-Ahmal*; Muslim, *Sahih*, *Kitab al-Talaq*, *Bab Inqida' al-Iddah*.

²⁵ See, Abu Dawud, *Sunan*, *Kitab al-Nikah*, *Bab fmi an Tazawwaja wa lam Yusami Sidaqan hatta Mat*; Ibn Majah, *Sunan*, *Kitab al-Nikah*, *Bab al-Rajul Yatazawwaj wa la Yafriid laha*; al-Tirmidhi, *Sunan*, *Kitab al-Nikah*, *Bab ma Ja' fi 'l-Rajul Yatazawwaj al-Mara'ah fa Yamut 'Anha qabla an Yafriid laha*. The ruling according to theses arrations is that the widow will be granted her full dower.

This is a vast subject area in which a tremendous amount of narrations is related from the Companions of the Prophet ﷺ. As for that which is related from those other than the Companions it runs into the thousands.

This was the position with regard to the Companions who were the most knowledgeable, the most grounded in jurisprudence, the most mindful of Allah and the best among the Muslim community. As for those who came after them, they are lesser in rank and it goes without saying that some of the corpus of the *Sunnah* was hidden from each and every one of them. Therefore, whoever believes that every authentic *hadith* reached each and every one of the Imams or indeed any one specific Imam, commits a grave and abhorrent error.

It should not be said that the *hadiths* have all been documented and compiled and therefore it is unlikely that they would have been unknown. This is because the well-known collections of *Hadith* were compiled after the demise of the Imams who are followed (may Allah have mercy on them all). Also, it is not acceptable to claim that the *hadiths* of the Prophet ﷺ are limited to those found in the specific collections of *Hadith*.

Moreover, even if this were to be the case, not everything in these collections would be known by a single scholar, and this is highly unlikely to be the case with any person; indeed it is possible that a scholar might possess a large number of collections of *Hadith* and yet not be aware of all of the *hadiths* contained within them. In fact, those who came before the emergence of these *Hadith* collections were by far more knowledgeable in the *Sunnah* than those who came after them. This is because a large part of the *Sunnah* that had reached them and had been authenticated by them might not have reached us except through unknown transmitters or a severed chain of narration or might not have reached us at all. Thus, it can be said that their “*Hadith* compilations” were preserved in their hearts, which contained several times as much as that which is found in the physical collections and the one who is well versed in this issue will have no doubts about this [point].

Nor should it be said that whoever does not have knowledge of all of the *hadiths* should not be considered a *mujtahid*. This is because if we were to stipulate as a condition of the *mujtahid* that he must be aware of all of the Prophet's words and actions relevant to legal rulings then there would not be a single *mujtahid* in the Muslim community. Rather, the *mujtahid's* objective should be to know most of the *hadiths* so that only a few of the details will escape him and hence he might only contradict the few details that had [not]²⁶ reached him.

²⁶ The word (not) is missing from the printed text of all available published editions of *Raf' al-Malam 'an al-A'immah al-A'lam*.

2 Second Reason

“that the *hadith* had reached the *mujtahid* but its authenticity, in his opinion, was not established.”

This may be because the [direct] transmitter of the *hadith* to him or the one before him or any one of the transmitters in that *hadith*'s chain of transmission is considered by him to be unknown [or unidentifiable], or of doubtful reputation (*muttaham*), or deficient in memory. It may also be because the *hadith* did not reach the *mujtahid* with a continuous chain but rather with a severed chain of transmitters, or that the transmitter was not precise when transmitting the wording of the *hadith* even though the same *hadith* was transmitted to other scholars by trustworthy transmitters with an uninterrupted *isnad*.

This might be because the one whom the *mujtahid* considered unknown was known by others to be trustworthy or that it was narrated by other than those whom he considered to be impugned authorities (*majruhun*), or that the *hadith* was narrated through another uninterrupted chain, or that some of the memorizers among scholars of *Hadith* narrated the wording of the *hadith* meticulously, or that there were *shawahid* [i.e. other Companions transmitting supporting narrations] and *mutdha'dt* [i.e. the *hadith* being narrated by another chain of transmitters reaching back to one of the transmitters after the Companion] indicating the authenticity of that narration.

This [second reason] was also very common at the time of the first generation of Successors (*tabi'in*) and the second generation of Successors (*tabii'i 'l-tabi'in*) up to the time of the well known Imams, more so than the first generation. Indeed, it is more common than the first reason. *Hadiths* were widespread by then and well known but they reached many of the scholars through weak channels, even though they had reached others through comparatively authentic channels. Therefore, they were considered to be an authoritative source (*hujjah*) because they were transmitted through these authentic channels, and yet they were not known to those who opposed them because of the weak transmissions available to them. This is why we find that many scholars suspended judgement on account of a *hadith* until its authenticity was properly established, so they would say: “my opinion in this issue is such and such. However, if there is a *hadith* narrated with regard to this [containing another ruling], and if its authenticity was to be established, then my ruling would be in accordance with it.”²⁷

²⁷ Muhammad b. Ahmad al-Dhahabi, *Siyar A'lam al-Nubala* (Beirut: Mu'assasat al-Risalah, 1413 AH), 10: 35 and 'Ali b. al-Hasan ibn Hibat Allah Ibn Asakir, *Ta'rikh Madinat Dimashq wa Dhikr Fadliha wa Tasmiyat man Hallaha min al-Amathil* (Beirut: Dar al-Fikr, 1995), 51: 389

3 Third Reason

“that the *hadith* was deemed to be weak on the basis of the *ijtihad* of one scholar while others disagreed with him, regardless of whether the narration of the *hadith* arrived through another channel or whether the correct opinion was that of this *mujtahid*, his opponents, or both of them, according to those who say that “every *mujtahid* is correct.”

There can be various causes for this:

One of them is that one scholar believes that a transmitter of the concerned *hadith* is weak whereas the other believes him/her to be trustworthy. And the science related to identifying transmitters is a vast one. It is possible that the correct *mujtahid* is the one who believes that the transmitter is weak, because he was aware of an impugning factor. Also, it is possible that the correct opinion is with the other *mujtahid* because he knew that the cause was not an impugning factor, either because it did not actually fall into a valid class of impugning factors or that the transmitter had an exemption which precludes the effect of the impugment upon him.

This is another vast subject area and the scholars specialising in the transmitters and their conditions [i.e. the study of the reporters of *Hadith*] have their agreements and disagreements with regard to this issue, just as the scholars specialising in all of the other sciences do.

Another reason is that the *mujtahid* does not believe that the transmitter heard the *hadith* from the narrator on the authority of whom he is transmitting it whereas another *mujtahid* believes that the transmitter did indeed hear the *hadith* [from the narrator on the authority of whom he is transmitting it]. And the causes bringing this about are well-known.

Yet another reason is that the transmitter has two states: a state of soundness and a state of confusion (*idtirab*), e.g. when a transmitter becomes confused or when his books are burnt down. Therefore, all that he transmitted while in a sound state is [considered] correct and all that he transmitted while in a state of confusion is [considered] weak. As a result, it might not appear clear to one *mujtahid* as regards the state in which the *hadith* was transmitted whereas another *mujtahid* was certain that the transmitter related that *hadith* while in his sound state.

Another reason is that the transmitter forgets that he related the *hadith* and is hence unable to remember it at a later date or he actually denies that he ever related the *hadith*.

Hence, one *mujtahid* might believe that this is a defect necessitating the abandonment of the *hadith* whereas another *mujtahid* might believe that it is acceptable to cite that *hadith* as evidence—and this topic of dispute [too] is well-known.

A further reason is that many of the Hijazi scholars hold the view that the 'Iraqi or Shami *hadith* should not be cited as an evidence unless it originated in Hijaz, to the point where some of them remarked: "Give the *hadiths* of the people of 'Iraq the same status as the narrations of the People of the Book; neither affirm them nor disbelieve them." And another [Hijazi] was asked: "Is the following chain of transmission authoritative: Sufyan from Mansur from Ibrahim from 'Alqamah on the authority of 'Abd Allah b. Mas'ud?" The reply was: "If it did not originate in Hijaz, then no."

This is due to the fact that they believed that the people of Hijaz had mastered the *Sunnah*, so that none of it had escaped them, whereas there was confusion regarding the *hadiths* of 'Iraq which necessitated a suspension of judgement on them. Some of the 'Iraqis, on the other hand, think the same about the *hadith* of the people of Sham. Most people, however, do not use this as a basis for weakening a *hadith*. So whenever the chain of transmitters is sound, the *hadith* is authoritative, whether it is Hijazi, 'Iraqi, Shami or from other places. Abu Dawud al-Sijistani (may Allah have mercy upon him) compiled a book on the narrations of *hadiths* known to be related only by individuals from certain regions (mafarid), in which he clarified those *hadiths* which could only be found with continuous chains of transmission in those particular regions and not in other regions. This includes *hadiths* from Madinah, Makkah, Ta'if, Dimashq, Hims, Kufah, Basrah and others. There are reasons other than these as well.

4 Fourth Reason

“that the scholar stipulates some conditions for the acceptance of *hadith* which was transmitted by one trustworthy memorizer but is opposed by others [who do not accept such conditions].”

For instance, some stipulate that the *hadith* must be compared to what is in the Qur'an and the established *Sunnah*²⁸ or that the transmitter must be a jurist if his narration happens to oppose that which can be deduced from textual principles (*qiyas al-usul*).²⁹ or the stipulation by some that the narration of the *hadith* needs to be widespread and known if it deals with an issue known to have occurred frequently at the time of the Prophet.³⁰ There are other conditions, well-known within their respective places [of discussion].

²⁸ See, Ahmad b. al-Husayn al-Bayhaqi, *al-Qira'ah Khalf al-Imam* (Beirut: Dar al-Kutub al-'Ilmiyyah, 1405 AH), 203; 'Umar b. 'Ali Ibn al-Mulaqqin, *Tadhkirat al-Muhtaj ila Ahadith al-Minhaj* (Beirut: al-Maktab al-Islami, 1994), 27 and 'Abd al-Rahman ibn Abi Bakr al-Suyuti, *Miftah al-Jannah fi 'l-Ihtijaj bi 'l-Sunnah* (al-Madinah al-Munawwarah: Madinah University, 1399 ah), 10..

²⁹ TSee, Ibn Rushd, *Bidayat al-Mujtahid*, 2 : 216; al-Shawkani, *Nayl*, 5: 332.

³⁰ See, for instance, 'Ali b. Muhammad al-Amidi, *al-Ihkam fi Usul al-Fiqh* (Beirut: Dar al-Kitab al-Arabi, 1404 AH), 2:124; 'Ali b. Ahmad Ibn Hazm, *al-Ihkam fi Usul al-Ahkam* (Cairo: Dar al-Hadith, 1404 AH), 2: 151; Idem, *al-Muhaha* (Beirut: Dar al-Afaq al-Jadidah, n.d.), 4: 117, Yahya b. Sharaf al-Nawawi, *al-Majmu: Sharh al-Muhadhdhab* (Beirut: Dar al-Fikr, 1997), 5: 221. 87

5 Fifth Reason

“that the *hadith* has reached the scholar and its authenticity has been established to him, but he forgets the narration. This can occur with regard to the *Qur'an* and the *Sunnah*. ”

For instance, there is the well-known *hadith* related on the authority of 'Umar (may Allah be pleased with him) that he was asked about the person who is in a state of major ritual impurity but finds no water while he is traveling. 'Umar said he must not pray until he finds water. 'Ammar b. Yasir (may Allah be pleased with him) then said, “O Commander of the Faithful! Do you not remember when you and I were [herding] camels and we were both in states of major ritual impurity and I rolled in the dust and performed prayer while you did not perform your prayer? And [do you not remember] that I mentioned this to the Prophet ﷺ and he replied, “It was enough for you to do it in this way” and then he struck the ground with his hands and then wiped his face and hands with his palms?” 'Umar then said: “O 'Ammar, fear Allah!” So 'Ammar said, “If you so wish, I will not narrate it,” upon which 'Umar remarked, “We hold you responsible for what you claim. ””³¹

Thus, this is a *sunnah* which was witnessed by 'Umar (may Allah be pleased with him) and one which he later forgot. Moreover, he even issued a *fatwa* opposing it and even when 'Ammar (may Allah be pleased with him) sought to remind him he failed to remember. Despite this, he did not accuse 'Ammar of lying but instead [implicitly] ordered him to narrate this *hadith*.

More illustrative of this point is [the occasion] when 'Umar delivered a speech to the people in which he stated, “No one must exceed the dowry paid by the Prophet ﷺ to his wives and the dowry of his daughters [and if he does] I will return it [to the prayer].”

A woman then said to him: “O Commander of the Faithful! Why do you deny us what was given to us by Allah?” Then she recited (... *and you have given one of them a heap of gold, then take not from it anything*).³² Following this 'Umar retracted his opinion and accepted hers for he had memorised the verse but had forgotten [its relevance].”³³

³¹ See, *Muslim, Sahih, Kitab al-Hayd, Bab al-Tayammum*.

³² *Qur'an* 4: 20

³³ See, 'Abd al-Razzaq, *Musannaf* 6:180; Sa'id ibn Mansur, *Sunan Sa'id ibn Mansur* (India: al-Dar al-Salafiyyah, 1982), 1:195. It is also quoted by Muhammad b. Futuh al-Humaydi, *al-Jam' bay al-Sahihayn: al-Bukhari wa Muslim* (Beirut: Dar Ibn Hazm, 2002), 4: 324. See also, 'Ali b. 'Umar al-Daraqutni, *al-'Ilal al-Waridah fi l-Ahadith al-Nabawiyyah* (Riyadh: Dar Taybah, 1985), 2: 232; 'Abd Allah b. Yusuf al-Zayla'i, *Takhrij al-Ahadith wa l-Athar al-Waqi'ah fi Tafsir al-Kashshaf li l-Zamakhshari* (Riyadh: Dar Ibn Khuzaymah, 1414 AH), 1: 294-297

This is similar to what was narrated about 'Ali who reminded al-Zubayr during the battle of al-Jamal about something which the Prophet ﷺ had entrusted to them; so al-Zubayr remembered and gave up the fighting because of it.'³⁴

Incidences of this kind [i.e. of learning a text and then forgetting it] are frequent among both the early and later scholars.

6 Sixth Reason

“that the scholar does not know the implication of the concerned *hadith*.”

This can be due to the fact that a term mentioned in the *hadith* was considered by him to be unfamiliar (*gharib*), such as [the terms]: *al-muzabanah*, *al-mukhabarah*, *al-muhaqalah*, *al-mulamasah*, *al-munabadhah*, *al-gharar* and other such unfamiliar terms about the interpretation of which scholars might disagree.

An example is the *hadith* transmitted by a chain attributed back to the Prophet ﷺ: “No divorce and manumission [of a slave] in a state of *ighlaq*.”³⁵ *Ighlaq* was interpreted [by some] to mean ‘coercion’ while those who disagreed were not [fully] aware of this [linguistic] interpretation.

It may sometimes also be because the meaning [of the *hadith*] in the scholar’s dialect and customary usage which was not [in conformity with] that language employed by the Prophet ﷺ, so the scholar would correlate it to what he understood from the term in accordance with his tongue, basing this on the principle that a word retains its original meaning [until proven otherwise].

This is like some of the scholars who heard some reports (*athar*) which allow a concession with regard to *nabidh*, so they thought it referred to some types of intoxicants; due to the fact that this term (i.e. *nabidh*) was used for those [intoxicants] in their native tongue, whereas in reality this term refers to that which was left in the water to sweeten it and was consumed before it attained any intoxicating qualities. This meaning is made clear through several authentic *hadiths*.³⁶

³⁴ See, Muhammad b. 'Abd Allah al-Hakim, *al-Mustadrak 'ala a l-Sahihayn* (Beirut: Dar al-Kutub al-Ilmiyyah, 1990), 3: 412-414. See also, Ma'mar b. Rashid al-Azdi, *al-Jami'* published with al-Musannaf of 'Abd al-Razzaq (Beirut: al-Maktab al-Islami, 1403 ah), 11: 241.

³⁵ See, Ibn Majah, *Sunan*, *Kitab al-Talaq*, *Bab Talaq al-Mukrahi wa al-Nasi*; Ahmad, *Musnad*, 6: 276; 'Abd Allah b. Muhammad Ibn Abi Shaybah, *al-Kitab al-Musannaf fi 'l-Ahadith wa 'l-Athar* (Riyadh: Maktabat al-Rushd, 1409 AH), 4: 83; 'All b. 'Umar al-Daraqutni, *Sunan al-Daraqutni* (Beirut: Dar al-Ma'rifah, 1966), 4: 36.

³⁶ See, for instance, Muslim, *Sahih*, *Kitab al-Hajj*, *Bab Wujub al-Mabit bi Mina*; Abu Dawud, *Sunan*, *Kitab al-Ashribah*, *Bab Sifat al-Nabidh*.

Similarly, some scholars encountered the term '*khamr*' in the Qur'an and *Sunnah* and they thought it referred to intoxicants made from grapes only on the basis that this was the meaning of the term in their dialect, but there are authentic *hadiths* which confirm that the term *khamr* is a name for every intoxicating drink."³⁷

Incidences of this kind [i.e. of learning a text and then forgetting it] are frequent among both the early and later scholars.

Sometimes the scholar did not know the implication of the *hadith* because the term [used in that text] was either a homonym, ambivalent in its meaning, or one that hovered between the literal and metaphorical sense, so the scholar took what he thought is the nearest [to the intended meaning] even though the intended meaning may turn out to be the other meaning of the term.

Again, some of the Companions understood the "white thread and the black thread" [in the verse dealing with the time for beginning the fast]³⁸ to refer to an actual rope (*habl*)³⁹ Others also understood 'hands' in the verse [dealing with dry ablution] {*and rub therewith your faces and hands*}⁴⁰ to cover the entire arm up to the armpit."⁴¹

[The scholar] sometimes [did not know the implication of the *hadith*] because its import was obscure (*khafi*). This is due to the fact that the indications that can be drawn from a statement are often very diverse and so people naturally differ in their ability to comprehend them and to grasp their meaning depending on what Allah has bestowed upon them.

Then a person might know the general implication of a text but he might not recognise that this specific case is included within that general context. It is possible that he might recognise that this specific case is included under that general context but then he forgets this later on.

This is such a vast subject that can be encompassed by none but Allah. It is also possible that a person commits a mistake by deriving from a statement what is not conceivable within the Arabic language which the Prophet ﷺ was sent with.

³⁷ See, Muslim, Sahih, Kitab al-Ashribah, Bab Bayan anna Kull Muskir Khamr.

³⁸ Qur'an 2: 186

³⁹ This verse was revealed in the context of setting the time for beginning the fasting which is at dawn time.

⁴⁰ Qur'an 4: 43

⁴¹ This verse was revealed in the context of dry ablution (al-tayammum).

7 Seventh Reason

“that the scholar thought that the hadith did not carry any specific implication (*dalalah*).”

The difference between this reason and the one before it is that in the previous [instance] the scholar did not know that specific implication whereas in this reason he knows the specific implication but believes that it ought not to be applied based on some principles he had which invalidated that implication, regardless of whether he was in reality right or wrong.

Examples of those principles include: that the scholar believes the specified general text (*al-'amm al-makhsus*) is not a valid proof, or that the implication (*al-mafhum*) is not a valid proof,⁴² or that a general ruling established for a specific cause is applied only where that cause exists, or that a general imperative does not necessitate obligation or immediate compliance, or that the *alif* and *lam* [constituents of the Arabic definite article] do not denote generality, or that negated verbs neither negate its essence nor all of its rulings, or that the required meaning (*al-muqtada*) does not necessitate a general import and as a result he would not claim the existence of a general import in the omitted elements (*al-mudmarat*) and the effective cause [*al-ma'ani*].⁴³

And likewise with other examples which would need a lengthy discussion were we to delve into them, as indeed half of the disputes that have arisen in *usul al-fiqh* come within this field [i.e. the implications]; even though the absolute principles [i.e. Qur'an and *Hadith*] do not encompass all of the disputed implications. One of the questions in this topic is whether certain sub-categories of classes of implications are included under the main class or not. For instance, a scholar might believe that a certain term is ambivalent (*mujmal*) due to the fact that it is a homonym (*mushtarak*), and there is nothing to indicate the preference of one of its two meanings over the other, or other [such] examples.

8 Eight Reason

“that the scholar deems that implication of the text to be opposed by something indicating that it could not have been so intended.”

⁴² For details related to the discussion on the authority of the implications, see, 'Abd al-Malik b. 'Abd Allah al-Juwayni, *al-Burhan fi Usul al-Fiqh* (Cairo: al-Wafa', 1418 AH), 1:298; Idem, *al Talkhis fi Usul al-Fiqh* (Beirut: Dar al-Basha'ir al-Islamiyyah, 1996), 2:184; 'Abd Allah b. Ahmad Ibn Qudamah, *Rawdat al-Nadir wa Junnat al-Munazir* (Riyadh: The Imam University, 1399), 262; al-Amidl, *al-lhkam*, 3: 73.

⁴³ See, *Al Taymiyyah*: 'Abd al-Salam b. 'Abd Allah, 'Abd al-Halim b. 'Abd al-Salam and Ahmad b. 'Abd al-Halim, *al-Musawwadah fi usul al-Fiqh*, ed. Muhammad Muhyi 'l-Din 'Abd al-Hamid (Cairo: Matba' al-Madani, 1964), 81.

Examples include a general term being opposed by a specific one, an absolute term (*al-mutlaq*) by a qualified one (*al-muqayyad*), an absolute imperative by that which negates it, or the literal (*al-haqiqah*) one by that which indicates a metaphor (*al-majaz*), and so on. This is also a vast subject; for indeed the conflict between the numerous implications of a phrase and the task of giving preference to some of them over others is like a wide ocean.

9 Ninth Reason

“that the scholar thinks that the *hadith* is opposed by contrary evidence which is accepted by all scholars, such as a Qur’anic verse, another *hadith*, or consensus, thereby indicating the *hadith*’s weakness, abrogation, or interpretation, if it is amenable to interpretation.”

This is of **two** types:

1

*that the scholar believes that the contrary evidence is preferable (rajih) in general, leading to one of the three possibilities [that is, the weakening of the *hadith*, its abrogation, or its interpretation away from the undesirable meaning] without specifying any one of them.*

2

*that the scholar specifies one of the three, so he believes that the proof is abrogated or interpreted away. There is the possibility, however, that he might commit a mistake regarding the abrogation by considering the later evidence to be the earlier one. Alternatively, he might err in interpretation by understanding the *hadith* in a way which its wording does not permit, or where there is something extraneous which rules out that interpretation.*

And if the new evidence was to oppose the earlier evidence in general terms, there might be a possibility that the opposing evidence does not give rise to the meaning which the scholar understood.

It is also possible that the opposing *hadith* is not equal in strength to the first one in terms of the authenticity of its chain of transmitters and the clarity of its text (*matn*). The same points and others apart from them could of course also be said for the first *hadith*.

In most cases the claim of a consensus is actually no more than the absence of knowledge about any opposing opinion. And we have found among the distinguished scholars those who arrived at certain opinions on the basis of the non-existence of any contrary opinion, even though the apparent meaning of the evidence necessitates, according to them, other than that opinion.

It was unthinkable, however, for that scholar to espouse an opinion which was not known to have been held by any earlier scholar, despite knowing that the people disagree with that view, to the extent that some scholars qualify their opinion by saying, "If there is a consensus on this issue then it is the most deserving to be followed. If not, I think the ruling with regard to this issue is such and such."⁴⁴

An example of this is the statement of the one who says, "I do not know anyone who allowed the testimony of a slave" whereas the acceptance of it is narrated from 'Ali, Anas, Shurayh, and others.⁴⁵

Another is the saying, "It is agreed that the partially freed slave does not inherit" whereas this right of inheritance is narrated from 'Ali and Ibn Mas'ud (may Allah be pleased with them) and there is a *hasan hadith* from the Prophet ﷺ to that effect?"⁴⁶

And finally, "I do not know of anyone who made obligatory the prayer upon the Prophet ﷺ in the prayer" whereas its obligation is narrated from Abu Ja'far al-Baqir?"

⁴⁷

This is due to the fact that the ultimate aim for many scholars is to know the opinions of the scholars who were their contemporaries within their region while not knowing the opinions of other scholars. We also find many of the early scholars who only knew the opinions of the Madinans and Kufans, and many later scholars only knew two or three opinions from amongst those of the reputed scholars, while anything outside this was considered by them to be opposed to the consensus because they did not know of any statement to the contrary [from a reputed scholar] even though they always heard views opposing what they knew.

It will not be possible for such a person to use a *hadith* opposed to this alleged consensus, because of his fear that this will lead to opposing consensus or that he believes that it does actually oppose the consensus, whilst [in his mind] consensus is the greatest of evidences.

This is the extenuating reason of many people in many cases where they did not adhere to the obvious import of the evidence. Some of them in reality can be excused, whereas others cannot be excused. This is also true with regard to the aforementioned and later reasons.

⁴⁴ See, Muhammad ibn Muftih al-Maqdisi, *al-Furu' fi 'l-Fiqh al-Hanbali* (Beirut: Dar al-Kutub al 'Ilmiyyah, 1418 AH), 5: 447 and Muhammad ibn Abl Bakr b. Ayyub known as Ibn al-Qayyim, *Ahkam Abl al-Dhimmah* (Dammam-Beirut: Ramadi, 1997), 2: 747,793.

⁴⁵ See for example, al-Bukhari, *Sahih*, *Kitab al-Shahadat*, *Bab Shahadat al-Ima' wa 'l-'Abid*.

⁴⁶ See, Ahmad b. Shu'ayb al-Nasa'i, *al-Sunan al-Kubra*, *Kitab al-Qisamah*, *Bab Diyat al Mukatab*.

⁴⁷ See, al-Tabari, *Tahdhib al-Athar*, 257; Ismail b. 'Umar Ibn Kathir, *Tafsir al-Qur'an al-'Azim* (Beirut: Dar al-Fikr, 1401 AH), 3: 509; al-Shawkani, *Nayl al-Awtar*, 2: 321-326; al-Zayla'i, *Nash al-Rayah*, 1: 427.

10 Tenth Reason

“ [the scholar thought that] the *hadith* was opposed by evidence indicating the *hadith*'s weakness, abrogation, or contrary interpretation, whereas his view that this is a contrary evidence is not shared by other scholars, or even by those who belong to his group, or the contrary evidence is not in reality the prevalent one. ”

An example of this is of the approach of many of the Kufans who, when an authentic *hadith* is opposed by the apparent meaning of a Qur'anic text, believe that the apparent Qur'anic text, such as one expressing generality, is given preference over the explicit meaning of a *hadith*.

A scholar might consider something to be apparent which is not in reality apparent; this is because there are many potential implications of a statement. So, as a result, the *hadith* of “the witness and the oath”⁴⁸ was rejected by the Kufans [on the basis that it was in opposition to an apparent Qur'anic text], even though other scholars know that there is nothing in the apparent Qur'anic text to prevent giving judgement in favour of someone on the basis of one witness and the claimant's oath. And if it should be the case [i.e. even if an apparent Qur'anic text opposing this *hadith* was to be found], then, according to these scholars the *Sunrkaj* is the ‘interpreter’ of the Qur'an. And there are well known statements from al-Shafi'i regarding this principle.

Also, Ahmad [ibn Hanbal] has his well known book on the refutation of the opinion of those who claimed the sufficiency of apparent Qur'anic texts (*zahir al-Qur'an*) without the need to interpret such texts with the *Sunnah* of the Prophet ﷺ. He mentioned in it evidences which the limitation of space prevents us from mentioning here.

And another example of this is to reject the *hadith* (*al-khabar*) which specifies the general meaning of a Qur'anic text, or which qualifies an absolute Qur'anic text, or adds to the Qur'anic ruling. The belief of those who say this is that adding to a text, as well as qualifying an absolute text, is a form of abrogation, and specifying a general text is also [a form of] abrogation.

Another example concerns a group of the Madinans who oppose authentic *hadiths* in preference to the practice of the people of Madinah, on the basis that they (i.e. *ahi al-Madinah*) must have been in agreement not to act upon those *hadiths*, and their agreement is a proof which is given preference over the *hadith*.

⁴⁸ See, Malik, *Muwatta'*, 2: 721; Ahmad, *Musnad*, 3: 305; Abu Dawud, *Sunan*, *Kitab al-Aqdiyah*, *Bab al-Qada' bi 'l-Yamin wa l-Shahid*; al-Tirmidhi, *Sunan*, *Kitab al-Ahkam*, *Bab ma ja' fi 'l Yamin ma' al-Shahid*; al-Nasa'i, *al-Sunan al-Kubra*, *Kitab al-Qada'*, *Bab al-Hukm bi al-Yamin wa 'l-Shahid*.

For instance, they did not act upon the *hadiths* related to the right of withdrawal from transactions (*khiyar al-majlis*)⁴⁸ on the basis of this principle. Most scholars, however, affirm the existence of disagreement among the Madinans on this issue [that is, regarding the right of withdrawal from transactions] but state that even if the Madinans were in agreement and they were opposed by other scholars [who are supported by *Hadith* evidences], then the most authoritative source would be the *Hadith*.

Another example is that of some people of the two cities (Madinah and Kufah) opposing some *hadiths* with explicit analogy (*qiyas jali*) arguing that general principles cannot be refuted by such *hadiths*.

And so on with similar areas of dispute regardless of whether the scholar opposing the *hadith* is right or wrong. So, these ten reasons are clear.

It is possible in many cases that the scholar has a proof for not acting upon a *hadith* which we are not aware of because the ways of comprehending knowledge are manifold and we cannot know all of what is in the hearts of the scholars. The scholar might have mentioned his proof or might not have, and if he were to mention it, it may or may not have reached us; and even if it was to reach us we may or may not comprehend the thrust of his argument, irrespective of whether his proof was in reality correct or not.

However, if we allow this possibility [that the proof supporting a *mujtahids* argument is unknown to us], it is not permitted for us to turn away from an opinion whose authority is established by an authentic *hadith* and is followed by some people of knowledge for another opinion proclaimed by another scholar who might possibly have an answer to that proof, even if he was more knowledgeable [than the first scholar]. This is due to the fact that the opinions of scholars are more prone to error than the *shari* evidence itself. The *shari* evidences are Allah's proof against all of his servants and this is not the case with regard to the opinion of the scholar. Indeed, it is impossible for the *shari* evidences to contain error if they are not contradicted by other similar evidence and this cannot be said for the opinion of a scholar.

And if practicing this [i.e. following the opinion of a scholar in the face of an opposing *shar'i* evidence] were to be allowed, then none of the evidences which accept this possibility [i.e. being open to *ijtihad*] will remain as such.

However, the purpose [of what we mentioned earlier] is that the scholar might have had a valid excuse for not following the *shari* evidence, and we are excused for not following his opinion.

⁴⁸ See, *Muslim, Sahih, Kitab al-Buyu', Bab Thubut Khiyar al-Majlis*.

For instance, they did not act upon the *hadiths* related to the right of withdrawal from transactions (*khiyar al-majlis*)⁴⁹ on the basis of this principle. Most scholars, however, affirm the existence of disagreement among the Madinans on this issue [that is, regarding the right of withdrawal from transactions] but state that even if the Madinans were in agreement and they were opposed by other scholars [who are supported by *Hadith* evidences], then the most authoritative source would be the *Hadith*.

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⁴⁹ See, *Muslim, Sahih, Kitab al-Buyu', Bab Thubut Khiyar al-Majlis*.

For instance, they did not act upon the *hadiths* related to the right of withdrawal from transactions (*khiyar al-majlis*)⁴⁹ And Allah (Glorified and Exalted is He!) says: {This is a people that have passed away; they shall have what they earned and you shall have what you earn, and you shall not be called upon to answer for what they did.}⁵⁰

And Allah (Glorified is He!) also said, (And if you have a dispute concerning any matter, refer it to Allah and the Messenger if you are (in truth) believers in Allah and the Last Day.)⁵¹

It is not permitted for anyone to oppose an authentic *hadith* of the Prophet ﷺ and give preference to the opinion of any human being. On one occasion, when Ibn 'Abbas (may Allah be pleased with him and his father) was asked by a man about an issue, he answered with a *hadith*.

The man responded, "[But] Abu Bakr and 'Umar said such and such [with regard to that issue]," Ibn 'Abbas said; "You are about to be struck by stones from the sky! I say to you that the Prophet ﷺ said such and such, and you reply, "[But] Abu Bakr and 'Umar said such and such!"⁵²

If it is accepted that some of the reasons mentioned above could cause a scholar to not follow a *shar'i* evidence, and if an authentic *hadith* is found which contains permissibility, prohibition or another ruling, it is not permissible to believe that a scholar who did not adhere to it (whose reasons for departing from the text have been given above) should be punished because he made the prohibited permissible or vice versa, or that he gave judgement on the basis of what was not revealed by Allah. Similarly, if a *hadith* contains a threat, by the mention of a *la'n*.⁵³

Anger or punishment, or something similar, then it is not permitted to say that the scholar, who permitted such an action or undertook it, would fall within the purview of that threat. We know of no disagreement among the scholars of the *ummdtj* with regard to this issue except something narrated from some of the Baghdadi Mu'tazilites such as Bishr al-Marrisi⁵⁴ and his like who alleged that those among the *mujtahids* who make a mistake would be punished on account of this mistake.

⁴⁹ Our'an 2:134

⁵¹ Our'an 4:59

⁵² See, Muhammad al-Amin b. Muhammad al-Mukhtar al-Shanqiti, *Adwa' al-Bayan* (Beirut: Dar al-Fikr li 'l-Tiba'ah wa 'l-Nashr, 1995), 7: 328.

⁵³ What is meant by *la'n* here, according to the classical Muslim literature, is to pray or state that a person be rejected from the mercy of God permanently or temporarily. But it could also mean in some instances censure and condemnation of the action with which the *la'n* was associated. See, Muhammad b. Jarir al-Tabari, *Jami' al-Bayan 'an Ta'wil Ayy al-Qur'an* (Beirut: Dar al-Fikr, 1405 AH), 1: 408; Ibn Qudamah, *al-Mughni*, 8 : 39; al-Nawawi, *Sahih Muslim bi Sharh al-Nawawi*, 9:140-141; Muhammad b. Makram Ibn Manzur, *Lisan al-'Arab* (Beirut: Dar Sadir, n.d.), 13: 387; Muhammad ibn A bi Bakr al-Razi, *Mukhtar al-Sihah* (Beirut: Maktabat Lebanon, 1995), 250.

⁵⁴ See, Ahmad b. 'Ali al-Khatib al-Baghdadi, *Ta'rikh Baghdad* (Beirut: Dar al-Kutub al-'Ilmiyyah, n.d.) 7: 56-66; Ahmad b. 'Ali Ibn Hajar, *Lisan al-Mizan* (Beirut: Mu'assasat al-A'lam, 1986), 2: 29.

This is because the one who commits a prohibited action would be liable for the threat only if he was aware of the prohibition or if he was able to obtain that knowledge and failed to do so.

As for those who are brought up in the *badiyah* [remote places away from civilisation], or are new converts to Islam and who commit a prohibited action without being aware of its prohibition, they will not be sinning, and they cannot be punished with prescribed punishments (*hudud*) even if they did not base their action on *shar'i* evidence.

Therefore, *a fortiori*, those who were not aware of the prohibiting *hadith* and based the permissibility of an action upon *shar'i* evidence are more deserving to be excused. This is why such a scholar is rewarded and praised because of his independent reasoning. Allah (the Exalted) says: {And remember David and Solomon, when they gave judgement in the matter of the field into which the sheep of certain people had strayed by night: We did witness their judgement. To Solomon We inspired the (right) understanding of the matter: to each (of them) We gave Judgement and Knowledge}.⁵⁵

So Solomon was distinguished for his understanding [in this case] while both were praised for [having] sound judgement and knowledge. In the two *Sahihs* of al-Bukhari and Muslim it is narrated on the authority of 'Amr b. al- 'As (may Allah be pleased with him) that the Prophet ﷺ said, "When a judge exercises independent reasoning and gives the right judgement, he will have two rewards, but if he errs in his judgement, he will still have earned one reward."⁵⁶

Therefore, it is clear that the *mujtahid*, despite his error, is rewarded because of his *ijtihad* and his mistake is forgiven due to the fact that arriving at the correct opinion on every occasion is either impossible or highly unlikely. And Allah the Exalted says, (And Allah has not laid upon you in religion any hardship).⁵⁷ and He said, (Allah desires ease for you, and He does not desire for you difficulty).⁵⁸

In the two *Sahihs* of al-Bukhari and Muslim it is narrated that the Prophet ﷺ said to his Companions in the Year of the Trench, "None of you should pray the 'Asr prayer until you reach Banu Qurayzah" and so when it was time for prayer and the companions were still on their way, some of them said. "We will not pray ('Asr prayer) until we arrive at Banu Qurayzah [i.e. even if the time for prayer elapses]."

⁵⁵ Our'an 78-79

⁵⁶ Al-Bukhari, *Sahih*, *Kitab al-Itisam*, *Bab Ajr al-Hakim idha Ijtahada*; Muslim, *Sahih*, *Kitab al-Aqdiyah*, *Bab Bayan Ajr al-Hakim idha Ijtahad*.

⁵⁷ Our'an 22:78

⁵⁸ Our'an 2:185

Others said that this was not the intended meaning and they prayed Asr prayer while on the way and the Prophet found no fault with either of the two groups."⁵⁹

The first group held to the generality of the communication (*{'umum al-khitab}*) and therefore they considered the lapse of the appointed time [for the Prayer] as being included under that generality.

The other group felt they had the evidence necessitating the exclusion of this [the lapse of the appointed time] from the general import of the communication. They understood the command to be an encouragement to them to make haste in reaching those that the Prophet ﷺ had taken under siege.

This is an issue upon which there is a well known disagreement among the jurists, namely, "Can the general be particularised by analogy?" (*hal yukhass al-'umum bi 'l-qiyas*). However, [my view is that] those who prayed on the way were more correct in what they did.

Similarly, when Bilal (may Allah be pleased with him) sold two w'of one type of dates for one *sa'* of another type of dates, the Prophet ﷺ ordered him to return it⁶⁰ [on the basis that this was a transaction involving *riba*] but he did not indicate that Bilal came within the sphere of the rulings for consuming *riba* such as depravity (*tafsiq*), condemnation (*al-la'n*) and sternness (*taghliz*)-, because Bilal had not been aware that this transaction was prohibited.

Also, 'Adi b. Hatim and a group of the Companions (may Allah be pleased with them) thought that the Qur'anic verse {...until you can identify the white thread from the black thread}⁶¹ referred to [the literal meaning of the word *al-khayr*] i.e. the white rope and the black rope. So one of them would leave two strings near his pillow, one white and the other black, and would eat until he could identify one from the other. Upon learning of this, the Prophet ﷺ said to 'Adi, "Your pillow seems to be very large! It is only the whiteness of the dawn and the blackness of the night."⁶²

Therefore, the Prophet ﷺ indicated by this that 'Adi had not correctly comprehended the meaning of the verse, yet the Prophet did not attribute to him the censure of one who did not observe the fasting of Ramadan, even though it is one of the major sins.

⁵⁹ See, *al-Bukhari, Sahih, Kitab al-Jumu'ah, Bab Salat al-Talib wa 'l-Matlub Rakiban wa Ima'an*; *Muslim, Sahih, Kitab al-Jihad, Bab al-Mubadarah bi 'l-Ghazw*.

⁶⁰ See, *al-Bukhari, Sahih, Kitab al-Wakalah, Bab idha Ba' al-Wakil Shay'an Fasid*; *Muslim, Sahih, Kitab al-Musaqah, Bab Bay' al-Ta'am Mithlan bi Mithl*.

⁶¹ *Qur'an 2:187*

⁶² See, *al-Bukhari, Sahih, Kitab al-Tafsir, Bab wa Kulu wa'shrabu*; *Muslim, Sahih, Kitab al-Siyam, Bab Bayan ann al-Dukhul fi 'l-Sawm Yahsul bi Tulu' al-Fajr*.

In contrast [to this] are those who gave a *fatwa* to a man who had a head-injury (in the skull) that he had to wash the whole of his body [i.e. due to being in a state of major ritual impurity] so he did. He died as a result and the Prophet ﷺ said, “They killed him; may Allah kill them! Should not they have asked if they did not know? Indeed, the cure for ignorance is inquiry.”⁶³

Hence these people committed a mistake without [proper] *ijtihad* as they were not from among the people of knowledge.

Another example is that the Prophet ﷺ did not impose retaliation, blood money or expiation upon Usamah b. Zayd when he killed the person who had testified that “There is no God but Allah” in the battle of al-Huraqat.⁶⁴ Usamah believed that it was permissible to kill him on the basis that his Islam was invalid, even though it is clear that his killing was unlawful. The *salaf* and the majority of the jurists acted upon this when they concluded that the rebels would not be liable for retaliation, blood-money or expiation, in cases such as shedding the blood of innocent people, which they legitimated on grounds of some plausible reason (*ta'wil sa'igh*), they [rebels] will not be held responsible even though the killing and fighting they engaged in were prohibited.⁶⁵

The aforementioned condition for the applicability of a threat does not need to be repeated in every communication because the knowledge of it is well known and established in the hearts.

This is just like the promise [of reward] for carrying out a good deed is prefaced upon its being done with sincerity for the sake of Allah and that the deed was not rendered void by apostasy. This condition, also, is not mentioned in every *hadith* which promises a reward for an action.

And even when the conditions necessitating the applicability of a threat are present, the threat might be removed through the existence of an impediment (*mani'*). There are various types of such impediments, including repentance, asking for forgiveness, good deeds that erase sins, tribulations and calamities, the intercession of someone whose intercession is accepted and the mercy of the Most Merciful.

It is only when all of these impediments are lacking—and this will not be the case except with regard to the one who was arrogant, rebellious and fled from Allah in a way similar to that of a camel straying from its people—that the threat will be duly applicable to him.

⁶³ See, 'Abd al-Razzaq, *Musannaf*, 1: 223; Ahmad, *Musnad*, 1: 330; Abu Dawud, *Sunan*, *Kitab al Taharah*, Bab fi 'l-Majruh Yatayammam; Ibn Majah, *Sunan*, *Kitab al-Taharah*, Bab fi 'l-Majruh Tusibuh al-Janabah.

⁶⁴ See, al-Bukhari, *Sahih*, *Kitab al-Diyat*, Bab Qawl Allah Ta'ala wa man Ahyaha; Muslim, *Sahih*, *Kitab al-Iman*, Bab Tahrim Qatl al-Kafir ba'd an Qal La ilah illa 'Ilah.

⁶⁵ What Ibn Taymiyyah is discussing here is the issue of giving amnesty to rebels and, as he asserts somewhere else, non-belief is not a legitimate reason for killing.

This is because the main function of a threat is to emphasise that the deed in question is a cause for the punishment mentioned in the threat, thus creating the inference that the deed is prohibited and reprehensible. However, to say that the existence of the reason for the threat in any person would necessitate the occurrence of the consequence (i.e the punishment) is indeed an absolutely invalid conclusion. [As we have explained], the effect of a threat depends upon the presence of its conditions and the removal of all of the impediments to it.

To clarify this further, there are three possibilities with regard to the one who did not act upon a given *hadith*:

FIRST

that his leaving the hadith is permissible according to the agreement of all Muslims. An example of this is the person who did not act upon a hadith because he was not aware of it, although he had sought to the best of his ability to find out about it in view of his need for a fatwa or a judicial ruling, as we mentioned in the case of the rightly guided Caliphs and others (may Allah be pleased with them). There is no doubt in any Muslim's mind that such a person will not be liable for the sin resulting from the neglect of a deed [due to ignorance of the existence of the obligation/prohibition].

SECOND

that the leaving of the hadith is not permissible. It is highly unlikely that we will find the Imams not acting upon a hadith without a legitimate reason, God (the Exalted) willing.

THIRD

*What might be possible, however, is that some scholars may sometimes give an opinion on an issue despite the fact that they did not fully comprehend the issue in question, so they would give their opinion without having fulfilled the proper requirements for giving a ruling on that issue, even though they have some understanding and capacity for *iitihad* on it.*

[It is also possible that] the scholar is deficient in his deduction, so he would conclude with an opinion without an evidence for such conclusion even though he might have used some form *ijtihad* or he would arrive at his opinion before having taken his reasoning to its appropriate conclusion, even where he is basing his opinion on some evidence, or he might be influenced by a custom or predisposition which prevents him from an exhaustive treatment of the issue which would include a study of that which opposes his view, even if he based his opinion on some *ijtihad* and reasoning.

This is due to the fact that the [precise] limit [or extent] to which it is necessary to determine *ijtihad* might not be precisely identified by the *mujtahid*.

This is the reason that the scholars used to fear that the recognised form of *ijtihad* (*al-ijtihad al-Mu'tabar*) might not have been achieved on a given issue. This is indeed a sin but the punishment for the sin is only applicable if its performer did not repent. Moreover, the sin can be erased by asking for forgiveness, doing good to others, [undergoing] tribulation, intercession, and Allah's Mercy.

However, not included under this [i.e. the one who is pardoned] is the one who is overcome and defeated by his desire to the extent that he supports what he knows to be false, or the one who asserts authoritatively the correctness or error of an opinion without knowing the evidence for what he claims, either in affirmation or negation.

Indeed, these two are in the Hellfire, as the Prophet ﷺ said, "The judges are of three types: two in the Hellfire and one in Paradise; as for the one in Paradise, it is a person who knew the truth so he judged according to it. As for those who are in the Hellfire: it is the one who gave judgement among the people on the basis of ignorance and the one who knew the truth but gave judgement contrary to it."⁶⁶

This is also true with regard to the *muftis* but there are impediments for the applicability of a threat to a specific person, as we explained earlier.

If the occurrence of something like that was theoretically possible from some of the distinguished scholars who are praised by the *ummah*—even though it is remote (or even non-existent)—he will [surely] not be short of one of the aforementioned reasons [which nullify the threat]. And even if such an occurrence were to be found, this would not diminish their stature as Imams at all.

This is because we do not believe that these people are infallible; rather we accept that they are capable of sin, and at the same time we wish for them the highest of ranks in Paradise because of what they were granted by Allah of righteous deeds and high status, and that they were never persistent in committing sin. We say also that they were not superior in rank to the Companions (may Allah be pleased with them). Furthermore, we say with regard [to the Companions] that which we said regarding the Imams, in reference to their *ijtihad* in *fatwas*, judgements, and the spilling of blood which occurred between them (may Allah be pleased with them all) and other matters [related to their *ijtihad*].

Having said that [the scholar] who did not act upon a given text is not only excused but even rewarded [i.e. for his *ijtihad*], this does not prevent us from following the authentic *hadiths* in respect of which we know of no opposing evidence, neither does it prevent us from believing that it is an obligation upon the *ummah* to act upon them [i.e. authentic *hadiths*] and to narrate them—and there is no disagreement among the scholars with regard to this.

⁶⁶ See, *Abu Dawud, Sunan, Kitab al-Aqdiyah, Bab fi 'l-Qadi Yukhti; al-Nasa'i, al-Sunan al Kubra, Kitab al-Qada', Bab Thawab al-Isabah fi 'l-Hukm.*

Moreover, these *hadiths* are of **two** types:

1 The first is the definite *hadith*

the scholars are in agreement upon the obligation of knowing and acting upon them. This is because both the chains of transmission and the contents (matan) of these hadiths are of definite (qat'i) nature. We have certainty that the Messenger of God ﷺ uttered such a hadith as well as that he intended by it that specific form.

2 The second is a hadith of probable, rather than definite, proof.

As for the first type, it is obligatory to believe in its implication in theory and in practice and there is no disagreement in general among the scholars with regard to this. They might of course differ with regard to some narrations (*al-akhbar*), as to whether they have definite chains of transmission or not and whether the implication of a narration is definite or not. An example of this is their disagreement over those solitary *hadiths* which were either received by the *ummah* with conviction and belief or which they agreed to act upon. According to the majority of jurists and most Muslim theologians (*mutakallimun*), this type of *hadith* creates certainty, while some groups of the *mutakallimun* disagreed.

Similarly, a *hadith* which is transmitted from various channels, each corroborating the other from certain specific authorities, might lead to certain knowledge for the one who is aware of all those channels [of transmission], the status of the transmitters as well as circumstantial and supporting evidences that encompass the narrations; whereas this certainty might be hidden from another scholar who does not possess this information. This is why the leading scholars of *Hadith* who possessed both a critical mind and an exacting approach to knowledge (may Allah be pleased with them) might reach absolute certainty with regard to some narrations whereas other scholars might not even believe in that authenticity let alone the certainty of such authenticity.

This is based on the fact that the narrations which lead to certainty do so on occasions from the multiplicity of their reporters and at other times from the status of these narrators; through the act of narrating itself; through the perception of the one who receives the narration or from the content of the narration.

So a narration transmitted by a few transmitters might lead to certain knowledge because of that which is known regarding their piety and strong memory, such that it preserved them from being implicated with lying and error. On the other hand, multiple numbers of the same figures from other transmitters might not lead to such certainty. This is no doubt the correct opinion, and it is the opinion of the majority of jurists and *Hadith* scholars as well as groups from among the *mutakallimun*.

On the other hand, some groups of the *mutakallimun* and some jurists adhered to the opinion that if a number of transmitters led to certainty in one case, then this same number of other transmitters must lead to certainty in every case. There can be no doubt that this is utterly incorrect, but this is not the right place to discuss this.

As for the question of the influence of circumstantial evidence that is not related to the transmitters of the *Hadith*, we have not mentioned it because this circumstantial evidence might lead to certainty by itself. And if it was to lead to certainty by itself then it should not be considered as dependent on the narration without restriction, just as the narration is not dependent on the circumstantial evidence. Rather, both may lead to certainty at one time or probability at another, and sometimes they may come together to create certainty while at other times certainty may arise from one of them and only probability from the other.

A person who has superior knowledge in the field of narrations might be more certain with regard to the authenticity of some narrations, whereas others who are not of his calibre might not attain that level of certainty.

Sometimes the scholars also differ with regard to whether a given *hadith* is definitive or not because of their disagreement over whether the *hadith* is explicit (*nass*) or apparent (*zahir*) in its implication, and if it is apparent whether it contains something which can exclude the less likely meaning. This too is a vast subject, as some scholars might be convinced of the certainty of implication of some *hadiths*, whereas others do not share that view with them. The first group might be certain that the given *hadith* can only admit that particular meaning, or that it is not allowed to interpret the *hadith* in accordance with the other meaning, or because of some other evidence that leads them to achieve certainty of interpretation.

With regard to the second type, that is the apparent (*al-zahir*) text, all recognised scholars subscribe to the opinion that it is obligatory to act upon it in legal matters. If, on the other hand, it contains a ruling pertaining to belief, such as a threat [of chastisement] and similar notions, the scholars have differed over it:

Some groups from amongst the jurists adhere to the opinion that if a threat of punishment is promised for the commission of an action contained in the narration of a trustworthy solitary transmitter, then it is obligatory to act upon it and to consider that deed as prohibited, but the *hadith* will not actually be used to establish the threat itself unless the narration was definite in import. The same applies if the content of a *hadith* was definite [in terms of its authenticity] but only apparent with regard to its implication.

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The following statement of 'A'ishah (may Allah be pleased with her) was understood according to this principle. 'A'ishah said to the wife of Abu Ishaq al-Sabi'i, "Tell Zayd b. Arqam that he has invadated his *jihad* with the Prophet ﷺ unless he repents."⁶⁷ Thus they argued that 'A'ishah expressed this threat because she was knowledgeable and certain of it.

We, however, are obliged to act upon her narration in establishing the prohibition even though we do not hold this threat of punishment due to the fact that the *hadith* has only reached us through a solitary narration. These scholars point out that the threat of punishment is a matter of belief and can only be affirmed through a definite (*qat'i*) text.

Moreover, if the ruling on the action is the subject of *ijtihad*, its doer will not be liable to the threat. According to the opinion of this group, the *hadiths* pertaining to threats can be used to establish the prohibition of deeds generally, but the punishment itself is not established unless the meaning of the *hadith* is unequivocal.

Another example is the reliance of most scholars upon the variant readings of the Qur'an, the authority of which has been established from some of the Companions (may Allah be pleased with them) even though these readings were not in the 'Uthmanic *mushaf* (may Allah be pleased with 'Uthman).

These narrations contained practice and theoretical knowledge and were solitary authentic *hadiths*. They cited these readings to affirm the practice, whilst they did not recognise them as part of the Qur'an due to the fact that recognising them as part of the Qur'an is a theoretical issue which cannot be established except through certainty.

Most of the jurists, however, hold the opinion—and this is also the opinion of the generality of the pious predecessors (*salaf*)—that these *hadiths* are authoritative proof in all that they contain of threats because it was the habit of the Companions of the Prophet ﷺ and their Successors to affirm threats on the basis of these *hadiths*, just as they also affirmed acting upon them.

They would unequivocally declare in general that the threat contained within these *hadiths* is applicable to the one who commits such actions. This is widespread in their narrations and *fatawa*. Their view is that the threat of punishment falls within those *shar'i* rulings that can sometimes be established by probable evidence and other times by definite evidence.

It is not necessary that there be absolute certainty as regards the threat, but only a belief that is grounded in certainty or a high probability, and this is the case with regard to theoretical rulings.

⁶⁷ See for the full text, 'Abd al-Razzaq, *Musannaf*, 8:185; al-Daraqutni, *Sunan*, 3: 52

There is no difference between a person's belief that Allah has prohibited an action and threatened its doer with a general punishment, and his belief that Allah has prohibited an action and threatened its doer with a specific punishment; both of them are ascribed to Allah (the Exalted).

Just as it is acceptable to attribute to Him the first category by the use of unrestricted evidence, [i.e. unrestricted in terms of the punishment being unspecified], it is likewise acceptable to attribute to Him through the second type of evidence [which contains a threat of a specific punishment].

Moreover, even if someone were to say that to act upon the threat is more deserving and appropriate, he would be correct. This is why they used to show a degree of leniency in the acceptance of *hadiths* related to moral exhortation (*al-targhib wa 'l-tarhib*) that they did not show in the *hadiths* related to legal rulings. [It was felt] that believing in the threat encourages the souls to abstain from prohibited matters. If that threat was true, the person would escape the threatened punishment, and if the threat turned out not to be true, and the consequence of that action would be less severe than that which was threatened, then his mistaken belief that the punishment was greater [than what it was in reality] would not harm him, if he were to leave that action.

This is due to the fact that if he had believed that the punishment was less than it was [in reality], he could also have been mistaken. This could also be true if he neither affirmed nor denied the extra punishment, he could still be mistaken.

An erroneous limitation of the punishment might lead him to find it easier to commit the prohibited act and as a result become liable for the extra punishment (if it is established) or it might create a reason for him to deserve such punishment.

Therefore, the possibility of an error in belief using either the existence or non-existence of a punishment is identical; but escaping possible punishment through believing in the existence of a threat is more likely, and so is given preference. It is on the basis of this principle that the majority of scholars give preference to the evidence prohibiting an act over the one permitting the same act.

Many jurists adopted the principle of precaution (*al-ihṭiyat*) in many rulings on the basis of this argument. Indeed, precaution with regard to action is almost unanimously treated as meritorious among those possessed of wisdom in general?⁶⁸

If an individual's fear of error by denying a threat stands in opposition to his fear of error in the opposite belief, the residual evidence necessitates belief in the existence of the threat and that punishment could be avoided on the basis of that belief [affirming the threat] and these are two evidences free of any opposition.

⁶⁸ For more details on *Ibn Taymiyyah* and precaution see, Matroudi, *The Hanbali School of Law*, 103-107

It is not acceptable for one to say that the non-existence of a definite proof for the threat is an evidence for its non-existence; as it is in the case of the non-existence of mutawatir narration for the extra readings not included in the 'Uthmanic *Mushaf*. This is because the non-existence of evidence {*'adam al-dalil*) does not necessitate the non-existence of that which is derived {*al- madlul 'alayh*).

One who negates one of the theoretical issues on the basis of the absence of definite evidence for its existence—as is the methodology of a group of the scholastic theologians (*mutakallimun*)—is in very clear error.

However, when we know that the existence of something necessitates the existence of its proof (*dalil*), and we are able to affirm non-existence of the proof [whether it be definite or indefinite], then we can assert with certainty the non-existence of that thing. This is on the principle that the absence of the antecedent (*lazim*) is a proof for the absence of the consequent (*malzum*).

Having learnt the motivating factors behind the transmission of the Book of Allah and His religion, we know that it is not possible that the *ummah* has concealed that which the people were in need of receiving as a general proof (*hujjah 'ammah*). Thus, when there is no common narration about a sixth obligatory prayer or another *surah* [of the Qur'^{an}], we know for sure that it does not exist. Having said that, the category of threats does not come under this rule, as it is not a condition for every threatened punishment that it be conveyed in a mutawatir manner, just as it is not a condition for establishing the ruling about that action.

It has been established that *hadiths* containing threats must be acted upon in accordance with what they indicate, with the conviction that the doer of that action is under the threat associated with the action. Liability for the punishment, however, depends on the existence of certain conditions and there are impediments.

This principle can be illustrated with some examples:

It is authentically narrated from the Prophet ﷺ that he said: “May Allah reject the receiver of interest, it's payer, its witnesses and its scribe.”⁶⁹ It is also authentically narrated—through more than one authentic chain of transmission—that the Prophet ﷺ said to the one who sold two *sa'*⁷⁰ [of one quality] in exchange for one [of another quality]: “Woe to you! This is usury {*'ayn al-riba*}).”⁷¹ And he also said: “And wheat for wheat amounts to interest unless they are exchanged on the spot...”⁷²

⁶⁹ See, *Muslim, Sahih, Kitab al-Musaqah, Bab La'n Akil al-Riba wa Mukilih*.

⁷⁰ A measure of volume

⁷¹ See, n. 60

⁷² See, *al-Bukhari, Sahih, Kitab al-Buyu', Bab Bay' al-Tamr bi al-Tamr; Muslim, Sahih, Kitab al-Musaqah, Bab al-Sarf*.

This encapsulates both kinds of interest (*riba*)—both surplus interest (*riba 'l-fadl*)⁷³ and (*riba 'l-nasa'*),⁷⁴ but then those who were aware of the Prophet's statement: "Interest is only in *al-nasi'ah*}"⁷⁵ saw it as permissible to exchange two *sa'* for one *sa'* in a direct exchange (*yadan bi-yadin*), such as Ibn 'Abbas (may Allah be pleased with him and his father) and his followers e.g. Abu al-Sha'tha', 'Ata', Tawus, Sa'id b. Jubayr and 'Ikramah as well as others among the distinguished Makkans who were among the best of this *ummah* in knowledge and practice. It is not permissible for a Muslim to believe that any of them specifically or one who imitates any of them—to the extent that such imitation is permissible—will be able for the *la'n* mentioned for the one who consumes interest because they did this on the basis of a conceivable interpretation of the texts.

Another example is that which is narrated from a group of the distinguished Madinans regarding the [matter] of having anal intercourse with the wife despite Abu Dawud's narration from the Prophet ﷺ that he said, "Whoever has anal intercourse with his wife, he has disbelieved in that which was revealed to Muhammad."⁷⁶ Does anyone think that it is permissible for a Muslim to say that "So and so were disbelievers in that which was revealed to Muhammad?"

Again, it is established from the Prophet ﷺ that he said: "Allah has rejected ten [categories of people] regarding intoxicants (*khamr*)- the one who squeezes the juice, the one who asks for it to be squeezed, the one who drinks it ... [etc.]"⁷⁷ Moreover, it is also established through various channels that the Prophet ﷺ said: "Every intoxicating drink is *khamr*."⁷⁸ and he also said: "Every intoxicant is *khamr*."⁷⁹ Also, 'Umar (may Allah be pleased with him) said in a speech while on his pulpit in the presence of the Muhajirun and Ansar: "*Khamr* is that which befuddles the mind."⁸⁰

Allah revealed the prohibition of *khamr*, and the occasion for its revelation is that they [people] used to drink [it] in Madinah. They only used to have drinks made from dates, not from grapes at all.

Yet there were some among the most eminent Kufan scholars of this *ummah*—in terms of both practice and knowledge—who believed that *khamr* was derived only from grapes, and that the *nabidh* produced from other than grapes and the *nabidh* produced from dates is not prohibited except where the quantity leads to a state of intoxication.

⁷³ Taking something of a superior quality in exchange form ore of the same kind of thing but of poorer quality.

⁷⁴ Taking interest on loaned money.

⁷⁵ See, Muslim, Sahih, Kitab al-Musaqah, Bab Bay' al-Ta'am Mithlan bi Mithl.

⁷⁶ See, Ibn Majah, Sunan, Kitab al-Taharah, Bab al-Nahi 'an Ityan d-Ha'id; al-Tirmidhi, Sunan, Kitab Abwab al-Taharah, Bab ma Ja' fi Karahat Ityan al-Ha'id.

⁷⁷ See, Ahmad, Musnad, 1: 316; Abu Dawud, Sunan, Kitab al-Ashribah, Bab al-'Inab Yu'sar li 'l-Khamr; Ibn Majah, Sunan, Kitab al-Ashribah, Bab Lu'inat al-Khamr 'ala Ashrat Awwjuh.

⁷⁸ See, al-Bukhari, Sahih, Kitab al-Wudu', Bab la Yajuz al-Wudu' bi al-Nabidh wa la 'l-Muskir; Muslim, Sahih, Kitab al-Ashribah, Bab Bayan ann Kull Muskir Khamr [Every intoxicating drink is prohibited].

⁷⁹ See, Muslim, Sahih, Kitab al-Ashribah, Bab Bayan ann Kull Muskir Khamr.

⁸⁰ See, al-Bukhari, Sahih, Kitab al-Ashribah, Bab al-Khamr min al-'Asal.

They, therefore, drank what they believed to be within the permissible limit. It is not permissible to say: "These scholars fall within the threat of punishment [related to *khamr*]," because they had an extenuating reason which they used to form an interpretation, or because of other possible extenuating circumstances. At the same time, it is not permissible to affirm that the drink they consumed was not considered to be a type of *khamr* where the drinker is seriously censured.

The basis of the general statement must incorporate this drinking; there was after all no *khamr* made from grapes in Madinah. The Prophet ﷺ had pronounced *la'n* against the one who sells *khamr*. Some of the Companions sold *khamr* [at the time of 'Umar] and the news of this reached 'Umar (may Allah be pleased with him) who said: "May Allah fight so and so! {*qatala Allah fulanan*). Does he not know that the Prophet ﷺ said: 'Allah condemned [those] Jews to whom it was made prohibited the selling of the fat of the carcass but they melted it and then sold it and made use of its price. ⁸¹

That particular Companion was not aware of the prohibition of selling *khamr*, yet this did not stop 'Umar (may Allah be pleased with him) from outlining the punishment for this sinful act even though he knew that the person in question was not aware of the prohibition. [He did it] so that that person and others would be discouraged from committing such an act after being made aware of its prohibition.

Furthermore, the Prophet ﷺ pronounced *la'n* against the one who squeezed the juice of *khamr* and the one who asked for it to be squeezed. Despite this, many jurists permit a person to squeeze grapes for someone else, even if he knew that his intention is to make *khamr* from it. We have, therefore, an explicit text (*nass*) regarding the *la'n* upon someone who squeezes grapes [for *khamr*], but it is also known that a person might be excused from the ruling because of the existence of an impediment.

Similarly, there are a number of *hadiths* containing the *la'n* of the *wasilah* (i.e. the woman who connects extensions to another's hair) and *al-mawsilah* (i.e. the woman who sits to have this done to her)," ⁸² but some of the jurists considered it to be only disapproved.

Another example is that the Prophet ﷺ said, "He who drinks from a silver vessel is in fact swallowing the fire of Hell down his belly." ⁸³ Yet, again, some of the jurists merely consider this to be strongly disapproved (*karahat tanzihiyyah*).

⁸¹ See, al-Bukhari, Sahih, Kitab al-Anbya', Bab ma Dhukira 'an Bam Isra'il; Muslim, Sahih, Kitab al-Musaqah, Bab Tahrim Bay' al-Khamr.

⁸² See, al-Bukhari, Sahih, Kitab al-Libas, Bab al-Wasl fi 'l-Sha'r; Muslim, Sahih, Kitab al-Libas, Bab Tahrim fi 'l-Wasilah wa al-Mustawasilah.

⁸³ See, al-Bukhari, Sahih, Kitab al-Ashribah, Bab Aniyat al-Fiddah; Muslim, Sahih, Kitab al-Libas, Bab Tahrim Isti'mal A'wani al-Dhahab wa 'l-Fiddah.

This is because the first party [i.e. those who unreservedly validated the above-mentioned contract of marriage], believes that what is in accordance with the general principles is that the contract of marriage does not become invalidated by incorrect conditions, just as it is not invalidated by not knowing one of the two remunerations (*'iwadayn*). Whereas the second party believes that what is in accordance with the general principles is that the conditions which are not stipulated in the contract itself do not affect its validity. It seems this *hadith* did not reach those who held this opinion, as their early works do not mention it. If it had reached them, they would have mentioned it either to act upon it or in response to it. Alternatively, it might have reached them but they interpreted it away, or they thought that it was abrogated or they had some other evidence that opposed it.

Therefore, we know that such people are not liable for this threat, even if they were to commit *tahlil* themselves, believing it to be permissible in that form.

This does not stop us from knowing that *tahlil* is the cause of such punishment [as a general rule], even if it was not to apply with regard to particular individuals because of the absence of a condition or the presence of an impediment.

Finally, there is Mu'awiyah's (may Allah be pleased with him) claim of kinship with Ziyad ibn Abih even though he was born from the wedlock of al-Harith b. Kildah, because Abu Sufyan used to say that he was from his own sperm. This was even though the Messenger of Allah ﷺ said, "If somebody knowingly claims to be the son of any other than his real father. Paradise will be forbidden to him." ⁸⁸ He also said, "If somebody claims to be the son of anyone other than his real father, or attributes himself in patronage to other than the one who freed him from slavery, upon him is the *la'n* of Allah and the angels and all people. Allah will neither accept repentance nor ransom from him." ⁸⁹ This is an authentic *hadith*. The Messenger of Allah had, in any case, also ruled that the child is attributed to the husband of the mother, and this is agreed upon.

We know that the one who attributes himself to other than the husband of his mother falls within the threats of punishment stated above; but it is not permissible to single out an individual after the Companions, let alone the Companions themselves, and to say that the threat is incumbent upon him. It is possible that they were not aware of the judgement of the Messenger of Allah ﷺ that the child is attributed to the husband, and that they thought that the child must be attributed to the one who caused the pregnancy, and they believed that Abu Sufyan was the one who made Sumayyah, Umm Ziyad, pregnant.

⁸⁸ See, *al-Bukhari, Sahih, Kitab al-Fara'id, Bab man Idda'a ila Ghayr Abih*; *Muslim, Sahih, Kitab al-Iman, Bab man Raghib 'an Abih*.

⁸⁹ See, Ahmad b. 'Ali Ibn Hajar, *al-Isdbah fi Tamyiz al-Sahabah* (Beirut: Dar al-Jal, 1992), 4: 566; 'Abd al-Rahman b. Muhammad Ibn Khaldun, *Muqaddimah Ibn Khaldun* (Beirut: Dar al-Qalam, 1984), 213.

⁹⁰ See, *Muslim, Sahih, Kitab al-Hajj, Bab Fadl al-Madinah*.

Indeed this ruling might not have been known to many people, especially before the spread of the *Sunnah*, and because it was contrary to the practice in the pre-Islamic period. There might also be other impediments averting the applicability of the threat such as good deeds that erase bad deeds and so on.

This also is a vast subject area. It includes all prohibited matters derived from the Qur'an and the *Sunnah*, whenever some of the Imams were not aware of the prohibiting evidence and they saw an act as permissible, or that the prohibiting evidence was opposed, according to them, by other evidence which they considered to be preponderant, and they used their independent reasoning in giving preference to one over the other based on their intellect and knowledge.

Prohibition has implications such as incurring sin, censure, punishment, iniquity [i.e. not meeting what is perceived to be the legal requirements of righteousness in Islam], and so on; but there are conditions and impediments to the applicability of these implications.

Prohibitions might sometimes be established but these consequences cannot be applied due to the absence of their conditions or the existence of an impediment, or because the prohibition does not apply to that particular person even though it is established and can be applied to others.

We have only repeated our statements on this issue because the scholars are divided into **two camps** on this point;

FIRST

which is the position held by the majority of the salaf and the jurists—is that Allah has only one ruling with regard to any given issue and the one who differs from that position on the basis of an acceptable piece of independent reasoning is mistaken, excused and rewarded.

Therefore, the act itself which was committed by the person who had this interpretation is prohibited but the implications of prohibition are not applicable to him due to Allah's attribute of forgiveness as He does not charge a soul with more than it can bear.

SECOND

that the prohibited matter is not considered prohibited for that person, as the prohibiting evidence did not reach him, even though it is considered to be prohibited for others; thus the action itself of that person is not prohibited.

The two opinions are in truth similar, and it is more of a difference in semantics.

Indeed this ruling might not have been known to many people, especially before the spread of the *Sunnah*, and because it was contrary to the practice in the pre-Islamic period. There might also be other impediments averting the applicability of the threat such as good deeds that erase bad deeds and so on.

This then is what can be said with regard to the *hadiths* containing threats where differences exist [among the scholars], i.e. that the scholars are in agreement on the citation of these *hadiths* for the prohibition of the action to which the threat is related, regardless of whether they are in agreement or not as to the ruling itself. In fact, in most cases, the need to cite the *hadiths* of threat is related to areas of disagreement. They differed, however, in establishing the threat on the basis of such *hadiths* where there was nothing definitive available, as we have already mentioned earlier.

And if it was to be asked: why did you not say that *hadiths* containing threats cannot be found within the area of dispute, but rather they are only in the area of agreement, and for every action whose doer is censured or threatened with wrath or punishment, must be interpreted to mean an action whose prohibition is agreed upon, so that those *mujtahids* who acted upon what they thought to be permissible will not be included within the threat of punishment. In fact, the one who believes [in the permissibility] is more serious than the doer; as the former is the one who ordered the latter to do that action, so he is the one who made him liable for the *la'n* or wrath by implication?

We say that the answer can be given in many ways:

1 First answer

The ruling of prohibition is either capable of being established where there is disagreement or it is not. If it cannot be established in the event of disagreement, then this necessitates that there be no prohibited matter except one that is agreed upon.

As a result every disputed prohibition would become permissible. This is evidently in opposition to the consensus of the *ummah*, and must of necessity be considered invalid in the religion of Islam.

And if prohibitions were to be established despite the presence of disagreement, even if on only one issue, then the *mujtahid* who considered that prohibited action to be permitted would either be liable to the censure and punishment of the one who permits what is prohibited or the one who commits it, or he would not.

Now, whether it is said that he would be liable, or that he would not be liable, then the same will hold true with regard to the established prohibition found in the *hadith* containing a threat, which is agreed upon as well as one which is disputed, as elaborated upon earlier.

In fact the threat is only related to the doer and the punishment for the one who permits what is prohibited is essentially more than that of the punishment for the one who did it without conviction or belief.

Therefore, if it is possible that the prohibition be established, despite there being a dispute, and the *mujtahid* who permitted the action will not be liable for the punishment of making the prohibited permissible because of his an extenuating reason, then it is more appropriate that the doer of the action not be liable for the punishment resulting from that action. Also, as this does not necessitate that the *mujtahid* is included under the effects of this prohibition—such as censure, punishment, etc.—then it equally does not necessitate his inclusion under the threat; a threat is after all no more than a type of censure and punishment. If the inclusion of threat under this type (*jins*) [of censure and punishment] is acceptable, then what was said as an answer for some of its categories is an answer to the others. There is also no benefit in differentiating between the degrees of censure, or how heavy or light the punishment is, because mild censure and punishment in this context is just as problematic as a heavy one; the *mujtahid* is liable to neither the mild nor the heavy censure and punishment. Rather, he is deserving of their opposites, namely reward and recompense.

2 Second answer

Agreement or disagreement with regard to the ruling of an action are matters external to the action itself and its attributes; they are only incidental and occur as a result of lack of knowledge of the issue amongst some of the scholars.

If the general wording (*al-lafz al-'amm*) was actually meant to refer to a specific meaning (*al-khass*), then there has to be evidence presented to support the specification. This evidence has to come simultaneously with [the general] communication, according to those who do not permit any delay in clarification (*ta'khir al-bayan*), or according to the majority of scholars it needs not be chronologically simultaneous, being revealed instead at the time it is needed.

There is no doubt that those who were addressed by a communication at the time of the Messenger of Allah ﷺ were in need of knowing the ruling contained in that communication. If the general meaning conveyed by the *la'n* upon the one who receives *riba* and the *muhallil* and other similar cases was intended where there is an agreement upon its prohibition, and yet this [agreement] could not be known except after the death of the Prophet ﷺ, and the subsequent discussion of the *ummah* upon all the ramifications of that general communication, then that would have meant a postponement in the clarification of the words of the Prophet ﷺ until such time. This is [clearly] not acceptable.

3 Third answer

The *ummah* was addressed by such communication so that it would recognise what is prohibited and avoid it, and will use it as a basis for their consensus, and cite it as evidence when they disagree.

If the intention was that prohibition would only be derived from what is agreed upon, then knowledge of the intended meaning would have been dependent on consensus. Its use as evidence, then, would not be valid before the existence of the consensus, but this means it cannot form the basis for a consensus either. This is because the basis for a consensus must exist before it, and therefore it is impossible for the evidence to follow the consensus, as this would lead to an invalid circular argument. Since the people of consensus then will not be able to cite the *hadith* as evidence for any meaning until they know that this meaning is intended, and this cannot be achieved until they have agreement, so the citation depends on the occurrence of the consensus *preceding* it, whilst the consensus depends on the citation of the *hadith*, if indeed the *hadith* was their proof.

Therefore, the matter becomes dependent upon itself and thus its existence is impossible, and cannot be an authoritative evidence in the area of disagreement as that evidence simply does not exist. This creates a suspension of the use of *hadith* to indicate rulings in areas of agreement and disagreement. The [inevitable] consequence of this is that none of the texts which refer to the gravity of an action can also inform us of the prohibition of that action, and this must be absolutely invalid.

4 Fourth answer

This requires that none of these *hadiths* can be relied upon unless it is known that the *ummah* agreed on a given meaning for them. Therefore, it would not have been permissible for the first generation (*al-sadr al-awwal*) to have used these *hadiths* as evidence.

In fact, those who heard these *hadiths* directly from the Messenger of Allah ﷺ would not be allowed to cite them as evidence. It would have been obligatory upon a person, who hears such a *hadith* and finds that many scholars had acted upon it and finds no opposition to it, not to act upon it until he is satisfied that there is nobody opposing it anywhere in the world. It is also not allowed for him to cite consensus upon an issue until he carries out a similarly thorough investigation.

This will lead to the invalidity of the citation of a *hadith* of the Messenger of Allah ﷺ by the mere existence of one *mujtahid* holding an opposing opinion. As a result, the opinion of one person validates and invalidates the words of the Messenger of Allah ﷺ.

If that person happened to be mistaken, then his mistake will have invalidated the words of the Messenger of Allah ﷺ. This is known to be void by necessity; because if it were to be said that a hadith cannot be cited except after knowing the existence of a consensus upon it, then this leads to the implications of texts becoming dependent upon consensus, and yet this is in opposition to consensus! If it were to be true, there would be no meaning to be derived from texts, as only consensus would have relevance, whereas texts would have no significance.

If, on the other hand, it were to be said that it should be cited as evidence solely on the basis that a conflicting opinion is not known, then this would still result in the opinion of one person within this *ummah* invalidating the implication of a text, and this too is in opposition to consensus and is invalid by necessity in Islam.

5

Fifth answer

That either the belief of the entire *ummah* in the prohibition is stipulated for a communication to be comprehensive, or the belief of the scholars alone regarding that prohibition is sufficient.

If the first were correct, then it would not be permissible to cite the *hadiths* on threats as evidence for prohibition until it was known that the entire *ummah*—even those who were brought up in the most isolated valleys and those who recently converted to Islam—believed that the prohibition exists. No Muslim can claim this, nor indeed any sane person, because knowledge subjected to this condition is practically impossible.

If it were to be said that the belief of all scholars in the prohibition is sufficient, the response would be that the consensus of the scholars was made a condition out of fear that the threat of punishment might encompass some of the *mujtahids*, even where they were only mistaken.

This is akin to the layman who did not hear the prohibiting evidence, as fear of this person's falling under the *la 'n* is similar to the fear of a *mujtahid* falling under it. This argument cannot be dismissed by saying that the *mujtahid* is among the loftiest and most righteous of this *ummah*, whereas that person is on the fringe of and one of the laymen of this *ummah*; the difference in their status does not necessitate that they be excluded from the ruling. This is because just as Allah (the Exalted) forgives the *mujtahid* when he makes an honest mistake. He also forgives the mistake of an unlearned one who was unable to learn. In fact, the mischief resulting from a layman committing a prohibited act, which he was not aware of and which it was not possible for him to know, is far less than the harm resulting from some of the Imams permitting that which has been prohibited by the Lawgiver, through lack of awareness of the prohibition as well as the incapability of knowing it.

For this reason it was said, “Beware of the lapse of the scholar, for when he slips a whole community slips as a result.”⁹¹ [On this subject] Ibn ‘Abbas (may Allah be pleased with them both) said, “Woe to the scholar from those who follow him.”⁹²

Thus, if the mistake of a scholar can be pardoned, despite the enormity of the harm caused by his action, then it is more appropriate that a layman be forgiven, since the harm caused by his action is less severe.

Granted, they are different from another aspect, namely that the *mujtahid* has based his opinion on *ijtihad* and the harm caused by his mistake is buried within his account of good deeds accumulated through the dissemination of knowledge and revival of the *Sunnah*. Allah has differentiated between them in this respect so he rewarded the *mujtahid* for his *ijtihad* and the scholar for his knowledge and this reward was not shared with the ignorant lay persons. Therefore, they are equal with regard to forgiveness but dissimilar with regard to reward. Punishing someone who does not deserve punishment is inconceivable, regardless of whether he is noble or lowly. Therefore, ruling out this possibility of punishment in the context of a *hadith* should be understood in a way that includes both parties [i.e. both scholar and layman].

6 Sixth answer

Among the *hadiths* on threat there are those that are explicit texts on the disputed issue, such as “the *la’n* of the *muhallal lahu*.”⁹³

Some scholars say that this person could not possibly incur any sin as he was not an integral part of the first marriage contract, so how is it possible to say that he was condemned due to his *belief* that it is obligatory to fulfill the *tahlil* contract? Hence, whoever believes that the contract of marriage for the first person (i.e. the *muhallil*) is valid, even if the condition attached to it is invalid, then the remarriage by the second (i.e. the *muhallal lahu*) must be permissible. This scholar, therefore, does not believe that the second person has committed a sin.

And even the *muhallil* is either condemned because of the act of *tahlil* or because of his belief that it is obligatory to fulfil the condition attached to the contract, or because of both reasons. If it is the first or the third reason then the intent of the *hadith* has been achieved. If it is the second, then this *belief* is the cause of the *la’n* regardless of whether there was a contract of *tahlil* or not. This would mean that what is mentioned in the *hadith* would not be the actual reason for the *la’n* and the actual reason for the *la’n* was not mentioned in the *hadith* and this is not acceptable. If the person who believed in the necessity of fulfilling the *tahlil* contract was ignorant [of the law] there is no *la’n* upon him.

⁹¹ Abd Allah ibn al-Mubarak al-Marwizi, *al-Zuhd* (Beirut: Dar al-Kutub al-Ilmiyyah, n.d.), 1:520.

⁹² See, Ahmad b. al-Husayn al-Bayhaqi, *al-Madkhal ila al-Sunan al-Kubra* (Kuwait: Dar al-Khulafa' li 'l-Kitab, 1404), 445.

⁹³ *Muhallal lahu* is the husband of a woman who divorces her thrice, after which another man who marries her solely for the purpose of legitimising her remarriage to him.

If he knew that it is not obligatory, then he could not believe in its obligation, except if he was an opponent of the Messenger of Allah ﷺ and he would then be a disbeliever, and then the *hadith's* *la'n* would be related to the *la'n* upon disbelievers. But disbelief is not linked to the denial of this minor ruling alone.

This would be akin to saying: "Allah has rejected the one who disbelieves in the Messenger's ruling that the stipulation of divorce in a contract of marriage is invalid."

This is a general statement in both wording and meaning and it is spontaneous generality (*'umum al-mubtada'*) It is not permissible to link such generality to an unusual ramification, lest the statement be considered as including incorrect linguistic usage or suggest an incapability of expression similar to one who interprets the Prophet's saying, "Any woman who marries without the permission of her guardian, then her marriage is invalid"*⁹⁴ as being related only to the *mukatabah*).⁹⁵

And to clarify the unusual nature of this interpretation [in the context of the *hadith* on *tahlil*] it would mean that the ignorant Muslim would not be included within this *hadith* nor the Muslim who knows that it is not obligatory to fulfill this condition*⁹⁶ and he does not stipulate it in the contract believing that its [fulfillment] is an obligation except if he was a disbeliever, and the disbeliever does not marry in the way Muslims do, unless if he was a hypocrite. Marriages that occur in this manner are very rare occurrences. Indeed, it would be right to suggest that such a meaning is unlikely to have occurred in the mind of the speaker when the *hadith* was uttered.

We have cited many evidences in other places on the fact that this *hadith* is meant to address the *muhallil* who intended his action even if he did not stipulate it in the contract itself.

The same is true also with regard to specified threats, such as *la'n* and the fire and the like, which were explicitly stated in the texts even though disagreement clearly remains. For instance, there is the *hadith* of Ibn 'Abbas (may Allah be pleased with him) from the Prophet ﷺ that he said, "May Allah reject the female visitors to the graves and those who build mosques and [place] lamps on graves."*⁹⁷ Al-Tirmidhi said that this is a *hasan hadith*⁹⁸ Yet, the visitation of graves by women was allowed by some scholars, and disapproved —not prohibited—by others.

⁹⁴ See, 'Abd al-Razzaq, *Musannaf*, 6:195; Ibn Abi Shaybah, *Musannaf*, 3: 454; Ahmad, *Musnad*, 6: 66; Abu Dawud, *Sunan*, *Kitab al-Nikah*, *Bab fi 'l-Wali*; Ibn Majah, *Sunan*, *Kitab al-Nikah*, *Bab la Nikah illa bi Wali*.

⁹⁵ The *mukatabah* is a slave who ratifies a contract of emancipation to free herself in return for installments attaining complete freedom upon completion of the agreed payment. See, Ibn Manzur, *Lisan al- Arab*, 1: 700.

⁹⁶ *Le. to divorce the wife after ratifying the marriage to waive the way for her previous husband to remarry her after divorcing her triply.*

⁹⁷ See, Ibn Abi Shaybah, *Musannaf*, 2:151; Ahmad, *Musnad*, 1: 229; Abu Dawud, *Sunan*, *Kitab al-Kharaj*, *Bab fi Ziyarat al-Nisa' li 'l-Qubur*; al-Tirmidhi, *Sunan*, *Kitab Abwab al-Salat*, *Bab ma Ja' fi Karahiyat an Yutakhadh 'ala 'l-Qabr Masjid*; al-Nasa' al-Sunan al-Kubra, *Kitab al-Jana'iz*, *Bab al-Taghliz fi Itikhadh al-Suruj 'ala 'l-Qubur*

⁹⁸ Al-Tirmidhi, *Sunan*, *Kitab Abwab al-Salat*, *Bab ma Ja' fi Karahiyat an Yutakhadh 'ala 'l-Qabr Masjid*.

Another example is that of 'Uqbah b. 'Amir (may Allah be pleased with him) on the authority of the Prophet ﷺ who said "May Allah reject those who have anal intercourse with women."⁹⁹

There is the *hadith* of Anas (may Allah be pleased with him) from the Prophet ﷺ, in which he said, "The importer (of commodities) is blessed and the monopolist is rejected."¹⁰⁰

We have already mentioned the following *hadith*: "The three persons to whom Allah would neither speak on the Day of Resurrection, nor look at them, nor purify them (from sins), and they will have a painful chastisement..."¹⁰¹ Among them is one who refuses to give the surplus water in his possession to one who needs it.

Similarly, "the one who sells *khamr* is rejected"¹⁰² whereas some of the early people sold it.

Also, it is established as authentic from more than one channel that the Prophet (peace be him) said: "Allah will not look at the one who trails his garment on the ground out of pride."¹⁰³ The Prophet also said, "There are three whom Allah will not speak to, look at, or praise on the Day of Judgement and theirs will be a painful punishment: the one who wears his garment below his ankles, the one who reminds others of his favours, and the one who sells his product by means of making false oaths."¹⁰⁴ [This] despite some jurists' stating that wearing the garment below the ankles and trailing the garment on the ground out of pride are disapproved and not prohibited.

Similarly, there is his [i.e. the Prophet's] saying ﷺ, "Allah has rejected *al-wasilah* and *al-mawsulah*"¹⁰⁵ and this is one of the most authentic *hadiths*. And there is well-known disagreement over the extensions of the hair.

Finally, there is his [i.e. the Prophet's] statement ﷺ, "He who drinks out of silver utensils is only filling his abdomen with Hell Fire"¹⁰⁶ while some of the scholars did not deem this to be a prohibition.

⁹⁹ See, Ahmad, *Musnad*, 2: 479; Abu Dawud, *Sunan*, *Kitab al-Nikah*, *Bab fi Jami' al-Nikah*; al-Nasa'i, *al-Sunan al-Kubra*, *Kitab 'Ishrat al-Nisa'*, *Bab Dhikr Ikhtilaf Alfaz al-Naqilin li Khabar Abi Hurayrah*.

¹⁰⁰ See, 'Abd al-Razzaq, *Musannaf*, 8: 204.

¹⁰¹ See n.86 above.

¹⁰² See n.77 above.

¹⁰³ See, al-Bukhari, *Sahih*, *Kitab Fada'il al-Sahabah*, *Bab Qawl al-Nabi law kunt Muttakhidhan Khalila*; Muslim, *Sahih*, *Kitab al-Libas*, *Bab Karahat ma Zad 'ala 'l-Hajah min al-Firash wa 'l-Libas*.

¹⁰⁴ See, Muslim, *Sahih*, *Kitab al-Iman*, *Bab Bayan Ghilaz Tahrir Isbal al-Izar*.

¹⁰⁵ See n.83 above.

¹⁰⁶ See n.83 above.

7 Seventh answer

The reason necessitating generality is present whereas the aforementioned opposite is not deemed as acceptable because, taken to its logical conclusion, it would mean its application in issues of agreement and disagreement and this will lead to the inclusion, within the threat of punishment, of some who do not deserve to be included.

The response to this is that if the particularisation [of a ruling] is against the norm, then its multiplication (*takthiruhu*) (i.e. by the inclusion of other than those who were intended to be included under it) stands against the norm. As a result the one who is excused for his ignorance, or *ijtihad*, or imitation (*taqlid*), he is exempt from the generality of the text.

On the other hand, the ruling includes those who were not excused, in the way that it includes the issues of agreement. This [type] of particularisation (i.e. the exemption of some people from the generality of the text because they were excused) is less and therefore it is more deserving to be accepted (*awla*).

8 Eighth answer

If we were to understand the text in accordance with this, then it would have contained mention of the reason for the *la'n* and the ruling would hence not apply to the exception because of the existence of an impediment.

There is no doubt that the one who promises or issues a threat, does not have to specifically mention those who are exempted because of the existence of an impediment. Therefore, the statement will continue to be consistent with the proper methodology.

If, however, we were to associate the rejection (*la'n*) with committing an act the prohibition of which is agreed upon, or we made the holding of a belief opposing consensus as the reason for the *la'n*, then that reason is not mentioned in the *hadith*.

Moreover, that generality in the text has to be specified. If specification is a must in both cases, then it is more appropriate to apply it in the first case because of its agreement with the correct methodology and the absence of implication of a missing syntactical part (*idmar*).

9 Ninth answer

the reason behind this claim is to negate the inclusion in the *la'n* of the one who is excused. We have already mentioned that the intention behind the *hadiths* containing a threat is to make clear that the act in question is a cause for that *la'n*, so the implicit statement is as follows: "this act is a reason for the *la'n*." This does not, however, necessitate the fulfillment of the ruling upon every person, although it does bring about the existence of the cause without its implication and there is nothing objectionable in this.

We have already established that there is no censure for the *mujtahid* to the extent that we say: the one who permits the prohibited act incurs more sin than the doer of that act, but despite this we say that the one who has an extenuating reason is excused.

And if it were to be asked: who is to be punished seeing as the doer of this prohibited matter is either a *mujtahid* or someone who follows him (*muqallid lahu*) and neither of them are included under the punishment?

We will say: the answer has different aspects:

First aspect

The aim of the text is to clarify that this act necessitates punishment regardless of whether someone actually commits that act or not.

If it were assumed that every doer of that act is lacking the [requisite] conditions for the punishment or there is an impediment that prevents the application of the punishment, then this would not negate the forbidden quality of the act.

Rather, we will know that it is prohibited and [it is hoped] that whoever knows of the prohibition will refrain from it. The existence of excuses for the one who commits a prohibited act is something bestowed from Allah's Mercy.

This is similar to the principle that minor prohibited acts are prohibited even though they can be expiated for [by the commission of certain good deeds]—provided that the major prohibited acts are avoided. This is the case with all acts on which there is dispute regarding their prohibition. When it is clear that they are prohibited, even though the one who does so on the basis of *ijtihad* or imitation might be excused, this does not stop us from believing in their prohibition.

Second aspect

The clarification of a ruling is a reason for the removal of any doubts which prevent the applicability of the punishment.

This is because an excuse based on the [mistaken] belief is not meant to last forever; rather, the aim is for doubts to be removed if at all possible. If this was not the case then the clarification of knowledge would not have been obligatory, it would have been better to leave the people in their ignorance, and it would have been better for them to disregard the evidence available in disputed issues rather than seek to clarify them.

Third aspect

The clarification of the ruling and the threat support the one who has abstained from committing the prohibited act in remaining with firm resolve. If it were not [for the clarification of the ruling and the threat] the commission of such acts would become widespread.

Fourth aspect

That an excuse cannot be considered as an excuse except where one is unable to remove it. Therefore, whenever it is possible for a person to know the truth and he falls short, he is not to be excused.

Fifth aspect

Some people who commit the [prohibited] act might perhaps exercise an ijtiḥad which falls short of the ijtiḥad that would permit that action to the person or an imitator whose imitation was not of a standard that could make the action permissible for him.

Therefore, this kind of example has within it a cause for the applicability of the threat without the existence of this specific impediment. As a result, he will be liable to the threat and he will be subjected to it, unless another impediment was to be found for him, such as repentance or good deeds which erase bad deeds, and so on.

Then again, this is problematic, because the person might think that his ijtiḥad or imitation permits him to do what he did and he could be right sometimes and mistaken at other times. If, however, he sought the truth and did not leave it to his desires, then Allah does not charge a soul with more than it can bear.

10 Tenth answer

[i.e. to the claim that the *hadiths* containing threats are related to the issues of agreement only]: Whilst understanding these *hadiths* upon their required meanings leads to the inclusion of some *mujtahids* within the scope of the threat, giving some other meaning may similarly lead to the inclusion of some *mujtahids* within it. Therefore, if the inclusion is unavoidable in both cases, then the *hadith* is free of opposing evidence and as a result it is obligatory to implement it.

To clarify this: many imams stated that the doer of a disputed act is blameworthy, among them being 'Abd Allah ibn 'Umar (may Allah be pleased with him). When he was asked about the one who marries a woman to legitimise her subsequent remarriage to her previous husband, while she and her previous husband were not aware of [his intention], he said: "This is fornication and not marriage. May Allah reject the *muhallil* and the *muhallal lahu*."¹⁰⁷

¹⁰⁷ See, *Abu Dawūd, Sunan, Kitāb al-Nikah, Bab fī l-Tahlil*; *Ibn Majah, Sunan, Kitāb al-Nikah, Bab al-Muhallil wa al-Muhallal lah*; *Ibn Abi Shaybah, Musannaf*, 7: 292; *Yūsuf b. 'Abd Allah Ibn 'Abd al-Barr, al-Tamhid li ma fī 'l-Mawatta m'in Ma'arī wa 'l-Asanid* (Beirut: Dar al-Kutub al 'Ilmiyyah, 1999), 13: 235.

This is narrated from him through more than one channel. It is also narrated from others, among them Imam Ahmad ibn Hanbal (may Allah have mercy upon him) who said, "If he seeks to legitimise remarriage to a previous husband, then he is a *muhallil*, and he is rejected."¹⁰⁸ This sort of opinion has been narrated from groups of the imams in many issues of disagreement, such as *khamr*, usury and the like.

If the *shar'i la'n* and the other forms of threat do not apply except in issues of agreement, then this would mean that these scholars have pronounced rejection (*la'n*) against someone who is not permitted to have a *la'n* pronounced against them and consequently they deserve the threat which was narrated in several *hadiths* such as the statement of the Prophet (peace be on him): "Pronouncing *la'n* against the Muslim is the same as killing him"¹⁰⁹ and his statement ﷺ in the narration of Ibn Mas'ud (may Allah be pleased with him) that, "Insulting the Muslim is iniquity and fighting him is disbelief."¹¹⁰ These are agreed upon *hadiths*.

It is narrated from Abu 'l-Darda' (may Allah be pleased with him) that he heard the Messenger of Allah ﷺ say: "Verily, insulters and those who pronounce *la'n* will not be given the right of intercession on the Day of Judgement nor will they be accepted as witnesses."¹¹¹

And it is narrated from Abu Hurayrah (may Allah be pleased with him) that the Messenger of Allah ﷺ said: "It is not appropriate for one who is very truthful to pronounce *la'n*."¹¹² [Imam] Muslim narrates both of these two *hadiths*.

And it is narrated from 'Abd Allah ibn Mas'ud (may Allah be pleased with him) that the Messenger of Allah ﷺ said: "The believer is not an insulter, nor does he pronounce *la'n*, nor is he indecent, nor shameless."¹¹³ This is narrated by al-Tirmidhi, who said that it is a *hasan hadith*.¹¹⁴

And in another narration [Prophet ﷺ said]: "No person pronounces *la'n* against something which does not deserve it except that the *la'n* will rebound upon him."¹¹⁵ So this is the threat which accompanies this type of *la'n*, to the extent that it is said that whoever pronounces *la'n* against one who is undeserving of it, he will in turn *receive la'n*, and this kind of *la'n* is an iniquity that takes away truthfulness, the right of intercession, and being a witness [on the Day of Judgement].

¹⁰⁸ See, Ibn Qudamah, *al-Mughni*, 7 :138.

¹⁰⁹ See, al-Bukhari, *Sahih*, *Kitab al-Adab*, *Bab man Akfar Akhah bi Ghayr Ta'wil*; Muslim, *Sahih*, *Kitab al-Iman*, *Bab Ghilaz Tahrim Qatl al-Insan Nafsah*.

¹¹⁰ See, al-Bukhari, *Sahih*, *Kitab al-Iman*, *Bab Khawf al-Mu'min min an Yahbata 'Amaluh*; Muslim, *Sahih*, *Kitab al-Iman*, *Bab Ghilaz Tahrim Qatl al-Insan Nafsah*.

¹¹¹ See, Muslim, *Sahih*, *Kitab al-Birr wa 'l-Silah*, *Bab al-Nahy 'an La'n al-Dawab wa Ghayriha*.

¹¹² See, *ibid*.

¹¹³ See, Ibn Abi Shaybah, *Musannaf*, 6: 162; Ahmad, *Musnad*, 1: 404.

¹¹⁴ See, al-Tirmidhi, *Sunan*, *Kitab al-Birr wa 'l-Silah*, *Bab ma Ja' fi 'l-La'nah*.

¹¹⁵ See, Abu Dawud, *Sunan*, *Kitab al-Adab*, *Bab fi 'l-La'n*.

This [as mentioned earlier] applies to the one who pronounces *la'n* against one who does not deserve it.

Therefore, if the one who commits a disputed act is not included in the purview of the source text, then he does not deserve it and the one who pronounces *la'n* against him will be liable to this other threat. This would mean that those *mujtahids* who considered issues of dispute to fall within the ambit of the *hadith* would be liable to this threat.

Therefore, if that which is feared can exist regardless of the presence or otherwise of a dispute, then it will be known that it is in fact not to be feared, and nothing can impede the use of the hadiths as evidence.

However, if the feared possibility is not found in either of the two possibilities (i.e. the disagreed upon issue or agreed upon issue) then this means that the feared possibility does not exist at all.

That is so because when inseparability (*talazum*) is established and it is known that they (i.e. the *mujtahids*) are included within the scope of a threat in issues of disagreement, it necessitates that they also fall within it in the absence of disagreement. Thus, one of two matters must be affirmed, that is either the existence of the cause and the effect which would mean they are all included or the non-existence of the cause and effect which would mean their exclusion as a whole. This is because whenever the cause exists, so too does its effect and conversely, whenever the cause is non-existent, so too is the effect.

This is enough to refute the counter-argument. Our belief, however, is that the reality is that *mujtahids* are not included under either of the two possibilities as we have just clarified. This is because to fall within the scope of a threat, there must be no mitigating factors present in the commission of an act. The one who has a *shari* excuse is not included within a threat under any circumstances. Likewise, the *mujtahid* is excused. Indeed, he is rewarded. A necessary condition for inclusion within a threat is therefore absent in his case and as a result he cannot fall within its ambit whether he believes that the *hadith* must be interpreted according to its apparent meaning, or whether there is some dispute in this regard, for which he is excused. And this is a devastating implication (of their argument) (*ilzam mu'him*) which cannot be avoided except through one argument, which is to say: I accept that among the *mujtahid* scholars there are those who believe that issues of dispute can still be included within the texts pertaining to threat, and they therefore utilise threats in such issues of disputes on the basis of that belief, so they would, for instance, pronounce *la'n* against the one who did the action in question.

Nevertheless, they are mistaken in this belief, although this is a mistake for which they are excused and [instead] rewarded [for their *ijtihad*].

As a result, they would not be included within the purview of the threat regarding the one who pronounces *la'n* against another without legitimate reason. This is because such a threat, according to me, is related only to the *la'n*, the prohibition of which is agreed upon. Therefore, whoever utters a *la'n* the prohibition of which is agreed upon, he has exposed himself to the aforementioned threat. If the *la'n* is, however, a disputed issue, it will not be included in the *hadiths* of threat just as an action which is the subject of dispute as to its permissibility or the permissibility of pronouncing *la'n* against its doer is not included within the *hadiths* containing such threats.

Therefore, just as I exclude the issues of dispute from the first threat I should also exclude the issues of dispute from being included under the second threat, and I also should believe that the *hadiths* containing threats in both cases do not cover disputed issues, neither with regard to the permissibility of the action nor the permissibility of pronouncing *la'n* against its doer whether he held the action to be permissible or prohibited.

In fact, I do not, in either case, permit pronouncing *la'n* against the doer of the action or pronouncing *la'n* against the one who pronounces *la'n* against the doer, nor do I believe that the doer or the imprecator falls within a *hadith* containing a threat. I would not be harsh on the one who pronounces *la'n* in the manner of one who thought he was liable to the threat of punishment; rather, I consider his *la'n* upon the doer of a disputed act to be an issue of *ijtihad*. I do, however, believe he was wrong in his imprecation just as I might believe that the one who permitted the disputed action is also mistaken, as there are three opinions with regard to such disputed issues:

- 1 To hold that it is permissible.
- 2 To believe in the prohibition and the applicability of the threat.
- 3 To hold that it is prohibited but without such a strong threat of punishment being applicable.

I am inclined to favour this third opinion due to the existence of evidence for the prohibition of the action, but also for the prohibition of pronouncing *la'n* against the one who commits a disputed action, coupled with my belief that the narrated *hadiths* on threatening the doer of an act and the imprecator do not seem to imply these two cases.

So it could be said to the interlocutor: if you were to allow the *la'n* directed at the one who commits this act to be considered among the issues of *ijtihad*, then it would also be allowed to use the apparent text as evidence for this.

There would then be no avoiding the possibility that disputed issues were intended to be included within *the hadiths* of threat, and what necessitates it to be intended exists and therefore it must be acted upon. If, however, you did not allow the *la'n* of this doer to be considered among the issues of *ijtihad* then this *la'n* is definitely prohibited. There is no doubt that the one who pronounces *la'n* against a *mujtahid* with a *la'n* that is prohibited with absolute certainty would fall within the narrated threat upon the imprecator, even if he did this on the basis of an interpretation, as is the case with the one who pronounced *la'n* against some of the righteous *salaf*.

Therefore, a circular argument is created whether you were convinced of the prohibition of pronouncing *la'n* against the doer of a disputed act, or you allowed the difference of opinion on this. Your aforementioned belief does not prevent adducing texts pertaining to threats in either case, and this should be clear.

And it can also be said to him (i.e. the objector): our purpose in this argument is not to affirm the applicability of such threats to issues of disagreement, but merely to allow for the use of such *hadiths* pertaining to threat as evidence within such issues of disagreement. Such *hadiths* can indicate two rulings:

1 *The prohibition of the act itself* **2** *The threat*

What you have mentioned deals only with negating the *hadiths'* reference to the threat. Our aim here is to clarify its implications for the prohibition. Therefore, if you were to insist that the *hadiths* condemning the imprecator do not treat those *la'n* that are disputed, then no evidence would remain for the prohibition of such disputed *la'n*. As we have mentioned, we are discussing such disputed *la'n*, and if they are not prohibited then they must be permissible.

Or it could be said: if there is no evidence for its prohibition, it is not permissible to believe in its prohibition and yet that which necessitates such permissibility [i.e. to believe in its prohibition] is established through the *hadiths* cursing those who did the action. Moreover, the scholars disagreed over the permissibility of cursing him, but there is no evidence prohibiting such cursing according to this. Therefore it is obligatory to act upon the evidence indicating the permissibility of cursing him because there is nothing to oppose this evidence. This renders the question void.

There is also circularity in the argument on the part of the interlocutor from another perspective. This is that the majority of the texts prohibiting imprecation contain threats themselves. If the citation of a text containing a threat [of cursing] in matters of disagreement is not permissible then it cannot be permissible to cite them as evidence for a *la'n* upon one who commits a disputed action, as we have clarified earlier.

If the interlocutor were to say, "I cite consensus for the prohibition of this *la'n*" it will be said to him that consensus has only been established for the prohibition of pronouncing *la'n* against a specific individual who is named from amongst those of outstanding virtue, whereas you are aware of the disagreement concerning the *la'n* upon a generic attribute or characteristic that may be found in some people [without naming a particular individual]. It was mentioned earlier that cursing a characteristic does not mean its application to every individual case, unless the conditions for it are fulfilled and there are no impediments, and this is not the case here.

It can also be said to him that all the evidences mentioned earlier indicating the impermissibility of restricting these *hadiths* to issues upon which there is agreement can be used here, and they undermine this counter-argument just as they undermine the original question.

This is not, however, an example of using evidence as a premise amongst the premises for another evidence, so that it could be argued that this is actually only one evidence despite the prolongation (*al-tatwil*)', because the intention is to clarify that the feared outcome which they thought existed, can be found in both cases (agreement and disagreement); therefore it should not be considered a feared outcome and as a result it is one evidence that has indicated that issues of dispute are included, and that there is no problem with that.

It is not also objectionable that the evidence for one issue is used as a premise in evidence for another issue, even if the two issues are closely intertwined.

11 Eleventh answer

The scholars are in agreement on the obligation of acting upon the *hadiths* containing a threat to the extent that they imply a prohibition. Some of them only disagreed specifically with regard to the establishment of threats on the basis of *hadith* narrated in isolated *isnads* (*ahad*) containing such threats, whereas there is no credible or significant disagreement on affirming prohibitions based on *ahad hadith*.

Indeed, it was the habit of the scholars among the Companions and their followers and the jurists after them (may Allah be pleased with them all) in their letters and treatises to cite *ahad hadith* in issues of disagreement and other issues. In fact, if a *hadith* contains a threat, this is stronger in emphasising the prohibition, as this would normally be understood by the intellect from such statements.

Also, we have already indicated the preference for the opinion of those who act upon them [*ahad hadiths*] in rulings and believe in the threats contained within them, and that this is the opinion of the majority of scholars. No argument can, therefore, be accepted which contradicts an opinion agreed upon by the scholars.

12

Twelfth answer

The texts containing such threats within the Qur'an and the *Sunnah* are abundant, and to base opinions upon them must be considered obligatory in general and absolute terms without specifying individual culprits. Thus, it could be said that “this is rejected” or “the object of wrath” or “liable for the hellfire,” especially if the actual person in question were to possess virtue[s] and good deeds.

This is because all humans other than the Prophets (peace be on them all) are capable of committing minor and major sins, whilst that person might remain a *siddiq* (an extremely truthful person) or *shahid* (a martyr) or righteous as a consequence of the effects of a sin—as mentioned earlier—being nullified through repentance, seeking forgiveness, good deeds erasing bad ones, trials and tribulations expiating sins, intercession, or simply through the Will and Mercy of Allah.

So when we affirm what is necessitated by the statement of Allah (The Exalted): {Those who unjustly consume the property of orphans, are actually swallowing Fire into their own bellies: They will be enduring a Blazing Fire}.¹¹⁶ and {But those who disobey Allah and His Messenger and transgress His limits will be admitted to a Fire, and there they will stay: And they shall have a humiliating punishment}.¹¹⁷ and {O you who believe! Do not wrongfully consume each other's wealth but trade by mutual consent: do not kill each other, for verily Allah is Merciful to you! If any of you does these things, out of hostility and injustice, we shall make him suffer the Fire: that is easy for Allah}.¹¹⁸ and other verses containing a threat or when we speak about what is necessitated by the statements of the Prophet ﷺ, “May Allah reject the one who drinks khamr”¹¹⁹ or “the one who is recalcitrant toward his parents, or chaises the landmarks of the land”¹²⁰ or “May Allah reject the thief”¹²¹ or “may Allah reject the one who takes *riba*, the one who gives it, and the two witnesses and the scribe”¹²² or “may Allah reject the one who does not pay his *zakat* or exceeds the boundaries in this regard”¹²³ or “he who introduces any innovations [in religion] in Madinah, or gives a shelter to someone who committed a crime, Allah's *la'n* is upon him, as well as that of the angels and all the people”¹²⁴ or “the one who trails his garment on the ground out of pride, Allah will not look at him on the day of judgement”¹²⁵ or “He who has in his heart the weight of a mustard seed of pride will not enter Paradise”¹²⁶

¹¹⁶ Qur'an 4:10

¹¹⁷ Qur'an 4:14

¹¹⁸ Qur'an 4:29-30

¹¹⁹ See n. 77 above.

¹²⁰ See, Muslim, *Sahih*, *Kitab Al-Adabi*, *Bab Tahrim al-Dhabh li Ghayr Allah Ta'ala*

¹²¹ See, al-Bukhari, *Sahih*, *Kitab al-Hudu*, *Bab La'n al-Sariq idha lam Yusam*; Muslim, *Sahih*, *Kitab al-Hudu*, *Bab Hadd al-Sariqah*

¹²² See note 69 above.

¹²³ See, Abd al-Razzaq, *Musannaf*, 6:269; Ibn Abi Shaybah, *Musannaf*, 2:354; Ibn Khuzaymah, *al-Sahih*, 4-8; al-Bayhaqi, *al-Sunan al-Kubra*, 4:82

¹²⁴ See, al-Bukhari, *Sahih*, *Kitab al-Hajj*, *Bab Haram al-Madinah*; Muslim, *Sahih*, *Kitab al-Hajj*, *Bab Fadl al-Madinah*.

¹²⁵ See n. 103 above.

¹²⁶ See, Muslim, *Sahih*, *Kitab al-Iman*, *Bab Tahrim al-Kibr*

or “He who acts dishonestly towards us is not of us”¹²⁷ or “If somebody claims to be the son of any other than his real father, or attributes himself to other than the one who freed him from slavery, will not enter Paradise”¹²⁸ or “He who swore a false oath in order to entitle himself [to possess] a property, will meet Allah in a state that [Allah] would be angry with him”¹²⁹ or “He who appropriates the right of a Muslim by swearing a false oath, Allah would make Hell-fire necessary for him and would declare Paradise forbidden for him”¹³⁰ or “The one who severs the ties of kinship will not enter Paradise”¹³¹ and other such *hadiths* containing such threats, it is not permissible to single out a particular person from among those who committed these actions and to say that the relevant threat has befallen that person. This is because of the possibility of repentance and other ways of removing the punishment.

It would also not be permissible to say that this (i.e. the existence of such *hadiths*) necessitates pronouncing rejection *{la'n}* against Muslims or the *ummah* of the Prophet Muhammad ﷺ or pronouncing *la'n* against the *siddiqin* or the upright ones. This is because it might be that whenever the upright righteous one commits one of those prohibited actions, there would no doubt be an impediment preventing the applicability of the punishment to him, despite the cause of the punishment being present.

Hence, whoever did these actions thinking that they were permissible— either on the basis of *ijtihad*, imitation or other similar reasons—the last resort is that he is from a class of the righteous from whom the threat was lifted through an impediment, just as the threat might be impeded by repentance, good deeds which erase the bad ones, and other such reasons.

Note that this is the path that must be adopted [with regard to this matter], as there are only two ugly alternatives to this:

The First

to assert the applicability of the threat to each and every individual [committing the act] with the argument that this is merely acting upon what is necessitated by the texts.

This claim is uglier than the opinion of the Kharijis who accused those who committed sins with disbelief, the Mu'tazilah and others. The invalidity of this opinion is known by necessity in the religion of Islam, and the proofs for this are confirmed in places other than here.

¹²⁷ See, Muslim, *Sahih*, *Kitab al-Iman*, *Baab Qawl al-Nabi man Ghashshani fa laysa Minna*.

¹²⁸ See n. 89 above.

¹²⁹ See, al-Bukhari, *Sahih*, *Kitab al-Shahadat*, *Bab Qawl Allah Ta'ala inna 'l-ladhin Yashtaruna bi 'Ahd Allah*; Muslim, *Sahih*, *Kitab al-Iman*, *Bab Wa'id Man Iqtat'a Haqq al-Muslim bi Yamin Fajiratin bi al-Nasr*.

¹³⁰ See, Muslim, *Sahih*, *Kitab al-Iman*, *Bab Wa'id Man Iqtat'a Haqq al-Muslim bi Yamin Fajiratin bi al-Nasr*.

¹³¹ See, Muslim, *Sahih*, *Kitab al-Birr wa'l Silah wa 'l Adib*, *Bab Silat al-Rahim*.

The Second

to abandon forming opinions and actions based upon what is required by the hadiths of the Messenger of Allah ﷺ, assuming that to argue according to them leads to the defamation of those who contravened those hadiths.

Yet this abandonment would lead to misguidance and following in the footsteps of the People of the Book who have taken their rabbis and their monks and the Messiah, the son of Mary (peace be on him and her), as lords besides Allah, as the Prophet ﷺ said, "They did not worship them, [meaning their monks and rabbis], but these monks and rabbis made lawful to them what Allah has forbidden, and prohibited what Allah has made lawful, and they obeyed them in this."¹³² Thus, this abandonment leads to obeying the created ones in disobedience to the Creator. It also leads to an ugly result and incorrect interpretations. This could be understood from the implied meaning of the statement of the Exalted, {*Obey Allah, and obey the Messenger, and those charged with authority among you. If you differ in anything among yourselves, refer it to Allah and His Messenger, if you do believe in Allah and the Last Day. That is better and fairer in the end.*}¹³³

The scholars differ in various issues. If every tradition containing sternness (*taghliz*), which was opposed by someone meant that this *taghliz* would be abandoned or that the tradition would not be acted upon, then the outcome necessitated by this (which is the abandonment of the *hadiths* of the Prophet) would be greater in enormity than to attribute someone with disbelief or abandonment of the religion. If this feared outcome (i.e. abandonment of the *hadiths* of the Prophet) was not greater than what was before it (i.e. attributing someone with disbelief or abandonment of the religion), it will certainly not be inferior to it.

Therefore, it is a must for us to believe in the entire Book (the Qur'an) and to follow all that was revealed by Allah to us. And we should not believe in a part of the Book and disbelieve in another part. Our hearts should not be inclined to follow some of the *Sunnah* and avoid following some of it on the basis of customs and desires. This would indeed be an abandonment of the straight path in preference to the way of those who have brought wrath upon themselves, and those who have gone astray. May Allah guide us to what He loves and is pleasing to Him in terms of speech and action in a state of goodness and well-being for us and all Muslims. And praise be to Allah the Lord of the worlds, and countless salutations and blessings be upon Muhammad, the seal of the Prophets, and upon his family and his righteous Companions and his wives, the Mothers of the Believers, and those who follow them in goodness till the Day of Judgement.'

¹³² See, al-Tabari, *Tafsir*, 10:114; Abd al-Rahman Ibn Abi Hatim, *Tafsir al-Qur'an* (Sayda: al-Maktabat al-Asriyyah, n.d.), 6:1784; al-Bayhaqi, *Sunan*, 10:116

¹³³ Qur'an 4:59

¹³⁴ The translation of this text was based on the edition of Rafal-Maladm 'an al'Aimmat al-A 'lam (Riyadh: al-Ri'asah al-'Amman li Idarat al-Buhuth al-'Ilmiyyah, 1413 AH). The opinions expressed in the translated text are those of the author, Ibn Taymiyyah, and not necessarily those of the translator.

Assalamu'alaikum wa rahmatullahi wa barakatuhu,

We pray that this message reaches you
in good health and imaan.

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